

Government of the People’s Republic of Bangladesh Ministry of Finance

NOTIFICATION

Dated : 29 May 218

S.R.O. No. 161-Law/218.—In exercise of the powers conferred by section 159 of the Insurance Act, 21, the Government is pleased to publish the following English translation of the Act to be called the Authentic English Text of the Act, and it shall be effective from the date on which the Act comes into force under sub-section (2) of section 1 of the Act :—

Insurance Act, 21 Act no. XIII of 21

An Act to re-enact and consolidate the Insurance Act, 1938 upon repeal thereof

Whereas it is expedient and necessary to re-enact and consolidate the Insurance Act, 1938 (Act IV of 1938) upon repeal thereof; and

Therefore, it is hereby enacted as follows:—

CHAPTER-I PRELIMINARY

1. **Short title and commencement.**—(1) This Act may be called the Insurance Act, 21.

(2) It shall come into force at once.

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

(1) “approved auditor” means the Auditor appointed by the Authority in accordance with the provisions of this Act;

(2) “approved investments” means such investments as the Government may, for the purposes of this Act, by notification in the official Gazette, specify as approved investments;

(3) “approved security” means the Government security, and any other security charged on the revenues of the Government, or guaranteed by the Government to pay the principal and interest; and any debenture or other security for money issued under the authority of any Act of Parliament and specified as a security by the Government for the purposes of this Act by notification in the official Gazette;

(4) “participating policies”, in reference to life insurance business, means such contracts other than the investment-linked contracts, health contracts, group life contracts and group health contracts, under the terms and conditions of which the policy-holder has an entitlement to participate in the distributions of profits or surpluses by the life insurer; but a benefit payable under a policy shall not be deemed to be a distribution of profit or surplus if the benefit is determined according to the terms and conditions of the contract and is not subject to the exercise of discretion by the insurer;

(5) “financial institution” means an institution as defined in clause (b) of section 2 of the Financial Institutions Act, 1993 (Act 27 of 1993);

(6) “electronic media” means the Internet, mobile, radio, television, tape-recorder, cassettes and any form of electronic media used for publicity including computer diskettes and CD-ROMs;

(7) “Islamic insurance business” means the insurance business regulated in accordance with Islamic Shariah;

(8) “Actuary” means an Actuary possessing such qualifications as specified by regulations;

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- (9) “empolyer of agents” means a person certified under this Act who procures insurance business for a life insurer by employing or causing to be employed his full-time or parttime agent;
- (1) “Authority” means the Insurance regulatory Authority established under the Insurance Development and Regulatory Authority Act, 21 (Act 12 of 21);
- (11) “company” means a company as defined in clause (d) of sub-suction (1) of section 2 of the Company Act, 1994;
- (12) “the Company Act” means the Company Act, 1994 (Act 18 of 1994);
- (13) “continuous disability contract” means such a contract under which a benefit is payable in the event of :
- (i) the death by a cause specified in the contract, of the person whose life is insured;
 - (ii) injury to or disability of the insured as a result of accident or sickness; or
 - (iii) the insured found to have a medical condition or disease specified in the contract;
- (14) “Schedule” means any Schedule to this Act;
- (15) “Scheduled Bank” means the Scheduled Bank as defined in clause (j) of section 2 of the Bangladesh Bank Order, 1972 (P.O. 127 of 1972);
- (16) “encumbrance” means mortgage of any property, movable or immovable, charge either fixed or floating, hypothecation, pledge, assignment or transfer of interest by way of security or otherwise which reduces legal and beneficial ownership.
- (17) “registration” means registration under section 9 of this Act;
- (18) “family” means husband or wife, father, mother, son, daughter, brother and sister of a person and will include all who are dependent on that person;
- (19) “policy” means a contract of insurance;
- (2) “re-insurance” means a contract of insurance under which the insurer retains limited liability for his own interest by transferring the additional insured risk to one or more reinsurer(s) or to another insurer;

- (21) “retrocession” means a contract of reinsurance under wich the re-insurer cedes certain part of his liability to another insurer for its own interest;
- (22) “certified” in relation to any copy or translation of a document required to be furnished by or on behalf of an insurer or a Society as defined in chapter-III of this Act, means

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certified by the Chief Executive Officer of such insurer or society to be a true copy or translation;

(23) “regulations” means regulations made under this Act;

(24) “rules” means rules made under this Act;

(25) “insurer” means any company or society or statutory body incorporated or registered under the law of Bangladesh or the law of any other country which—

(a) carries on insurance business in Bangladesh; or

(b) with the objective of operating insurance business employs a representative or maintains a business centre within Bangladesh;

(26) “insurance policy-holder” or “policy-holder” means a person to whom a policy is issued or, in the case of a policy of life insurance, the person to whom the whole of the interest in the policy is assigned once and for all;

(27) “policy-holder’s liability” in relation to life insurance, means—

(a) a liability that has arisen under a policy; or

(b) a liability that will arise on the appearance of an event specified in the policy;

(28) “insurance” means the business of entering into and carrying out policies and contracts, by whatever name called, whereby, in consideration of a premium received, a person promises to make payment to another person contingent upon the happening of an event, specified in the contract, on the happening of which the second-named person suffers loss, and includes reinsurance and retrocession including life insurance contracts;

(29) “insurance agent” means a person registered under this Act who receives or agrees to receive payment by way of commission or other form of remuneration in consideration of his soliciting or procuring insurance business including continuance, renewal or reinstatement of policies of insurance;

(3) “Insurance Surveyor” means a person, by whatever name called, licensed under this Act who examines and expresses an independent opinion as to the cause, extent, location and amount of any loss incurred or claimed to be incurred in relation to the goods, property or any interests insured under a contract of non-life insurance;

(31) “Manager” means the Manager as defined in clause (p) of sub-section (1) of section 2 of the Company Act;

(32) “person” means any person, and shall also include any establishment, company, partnership business, firm, or any other organization;

(33) “Broker” means an Intermediary or insurance intermediary, including any bank and financial institution, registered under this Act to function for procuring non-life insurance business for or on behalf of a proposer for insurance or reinsurance, in expectation of payment by way of broker’s fee or commission from the insurer or reinsurer;

(34) “Managing Agent” means a person, firm or company entitled to the management of the whole affairs of a company by virtue of an agreement with the company, and under the

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control and direction of the Board of Directors except otherwise provided for in the agreement, and includes any person, firm or company, by whatever name called, occupying such position;

(35) “Government security” means the Government security as defined in clause (a) of section 2 of the Securities Act, 192 (Act X of 192);

(36) “Cooperative Society Act” means the Cooperative Society Act, 21 (Act 47 of 21);

(37) “solvency margin” means the asset, amount of which is prescribed by regulations, preserved by the insurer;

(38) “subsidiary” or “subsidiary company” means the subsidiary company as described in sub-section (2) of section 2 of the Company Act;

(39) “Auditor” means a person qualified under the provisions of section 212 of the Company Act to act as an Auditor of companies;

(4) the words and expressions not defined in this Act shall have the same meaning as used in the Company Act, 1994.

CHAPTER-II PROVISIONS APPLICABLE TO INSURERS

3. Act applicable to the insurers while liabilities remain unsatisfied.—

(1) Every insurer shall be subject to the provisions of this Act in relation to any class of insurance business so long as its liabilities in Bangladesh in respect of business of that class remain unsatisfied or not otherwise provided for.

4. Restriction on transaction of insurance and re-insurance business.—

(1) No person shall be permitted to carry on insurance or reinsurance business in Bangladesh except for the following companies or societies, namely :—

(a) a public limited company under the Company Act;

(b) cooperative societies registered under the Cooperative act having registration as an insurer under the Insurance act, 1938 immediately before this act coming into force; and

(c) a statutory insurance company formed under the law of any country outside Bangladesh not being of the nature of a private company or a subsidiary of a private company.

(2) No mutual insurance company shall transact a non-life insurance business under this Act.

5. **Classification of insurance business.**—(1) For three purposes of this Act, there shall be two classes of insurance business to be called life insurance and non-life insurance.

(2) Under this section, life insurance business shall mean the contracts of insurance upon human life, and it may, subject to sub-sections (4) and (5), be classified into different sub-classes by rules for the purpose of effectively carrying out life insurance business.

(3) Under this section, non-life insurance means all other classes of insurance except insurance contract upon human life, and it may, subject to sub-sections (4) and (5), be classified in different sub-classes by rules for the purpose of effectively carrying out a non-life insurance business.

(4) If a contract under this Act, one of the principal objects of which is to carry on a life insurance business, contains related and supplementary provisions of a non-life insurance contract it shall be

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construed to be executed for the purpose of life insurance business.

(5) The effecting and carrying out of contracts, the duration of which is not more than 1 (one) year, by an insurer registered for transacting non-life insurance contracts, on condition of payment of money for the loss due to accidental death or an accident not resulting in death, disease or disability shall be construed to be non-life insurance contracts.

(6) Notwithstanding anything contained in this section, the life insurance and general insurance business carried on by an insurer under the Insurance Act, 1938 and the Insurance Corporations Act, 1973 shall be construed to be life insurance and non-life insurance business, respectively.

6. Insurance business in rural or social sector.—Every insurer shall, after this Act comes into force, undertake such percentages of life insurance business and non-life insurance business in the rural or social sector as may be specified, through Gazete notification, by the Authority.

7. Islamic insurance business.—(1) The insurers that were registered under the Insurance Act, 1938 and carrying on the Islamic insurance business before this Act comes into effect, and any person or company interested in carrying on the Islamic insurance business may, subject to other provisions of this Act and permission of the Authority, carry on any class or sub-class of insurance businesses : Provided that no person or company shall carry on any conventional non-life insurance business along with Islamic insurance business.

(2) The insurers that were carrying on conventional non-life insurance business along with Islamic insurance business immediately before this Act coming into force may carry on either conventional insurance business or Islamic insurance business after this act coming into force : Provided that the said insurers shall notify about the type of insurance business they want to carry on to the Authority in writing within 6 (six) months from the constitution of the Authority.

(3) An insurer may, subject to the permission of the Authority, continue the type of insurance business for which it has applied to the Authority to carry on under the proviso to sub-section (2) and shall not continue any other type of insurance business : Provided that insurance policies issued earlier under any other type of insurance business shall remain in force until payment of claims or expiry of its term.

REGISTRATION OF INSURERS

8. Registration certificate, etc.—(1) No person shall, without obtaining a registration certificate

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from the Authority, carry on any insurance business under this Act :

Provided that the Jiban Bima Corporation and the Sadharan Bima Corporation established under the Insurance Corporation Act, 1973 shall be deemed to have been registered for carrying on insurance business under this Act.

(2) Any person willing to carry on any life insurance on non-life insurance business shall have to apply to the authority for registration certificate in such form and manner as may be prescribed by regulations.

(3) If an insurer, registered under the Insurance Act, 1938 immediately before the commencement of this Act, desires to continue insurance business in Bangladesh, shall have to apply in writing to the Authority for registration certificate within 6 (six) months from the commencement of this Act.

(4) The applicant shall have to pay such fee as may be prescribed by rules for issuance of registration certificate and renewal thereof under this section.

(5) An application for registration certificate under this section shall be accompanied by the following documents, papers and information, namely :—

(a) where the applicant is a company, a certified copy of the memorandum of association and articles of association, name, address, occupation and tax identification number, if any, of its Directors;

(b) where the applicant is an insurance company under the Insurance Act, 1938, full address of its principal office in Bangladesh and name, tax identification number, if any, and address of correspondence of such company’s Directors and Managers;

(c) where applicant’s principal place of business is outside Bangladesh, or the applicant is domiciled outside Bangladesh, documents as mentioned in clause (a) of section 114;

(d) where the applicant is a cooperative society, names of all members, their addresses, tax identification numbers, if any, and the address of registered principal office;

(e) in the case of an insurer having its principal office of business or domicile outside Bangladesh, a statement verified by an affidavit made by the Chief Executive Officer of the insurer setting forth the requirements, if any, not applicable to nationals of that country in which such insurer is constituted, incorporated or domiciled which are imposed by the laws or practice of that country upon Bangladeshi nationals as a condition of carrying on insurance business in that country;

(f) a statement of the class or sub-classes of insurance business to be carried on, and a statement that the amount required to be deposited by section 23 or section 119 before application for registration is made has been deposited together with a certificate from the Bangladesh Bank showing the amount deposited;

(g) where the provisions of section 21 or section 118 apply, a statement duly certified by an auditor showing the total paid-up capital and the total working capital of the insurer and a declaration verified by an affidavit made by the Chief Executive Officer of the insurer that the provisions of those sections as to paid up capital or working capital, as the case

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may be, have been duly complied with;

(h) a certified copy of the published prospectus, if any, and of the standard policy forms of the insurer and statements of the proposed premium rates, benefits, terms and conditions in connection with insurance policies together with a certificate in connection with life insurance business by an actuary that such rates, benefits, terms and conditions are implementable and proper;

Provided that in the case of non-life insurance business other than workmen’s compensation and motor car insurance, the requirements regarding prospectus, forms and statements;

(i) the receipt showing payment of such fees as may be prescribed by the rules for the class or sub-classes of insurance business classified under this Act; and

(j) such other documents, papers and information as may be specified in this behalf by regulations.

(6) Every application under this section shall be certified by a declaration signed by the person making the application that the statements accompanying the application are true and accurate.

(7) On receipt of an application under sub-section (3), the Authority may conduct such inquiry and investigations as it may consider necessary to verify the accuracy of the information filed with the application.

9. Issuance of registration certificate.—(1) On receipt of an application for registration under section 8, the Authority may, subject to the provisions of sub-sections (2) and (3), issue the insurer a registration certificate to carry on life or non-life insurance business if the Authority is satisfied to the effect that—

(a) the applicant is incorporated or registered in Bangladesh or outside Bangladesh under the law of Bangladesh or of any other country;

(b) the provisions of this Act in relation to minimum paid-up share capital requirements have been complied with by the applicant;

(c) the provisions of this Act relating to minimum statutory deposits have been complied with by the applicant;

(d) the applicant’s general management is good and financial condition thereof is sound;

(e) the provisions of this Act relating to the effecting of reinsurance arrangements have been complied with by the applicant;

(f) the projected volume of business of the applicant is likely to ensure adequate earning prospects to be able to meet its liabilities; and

(g) the applicant has the situation to have an Actuary and other qualified officers and employees employed under him to carry on life insurance business.

(2) Where the Authority finds the application of an applicant not appropriate, it shall refuse that application in such time and manner as may be prescribed after giving the applicant reasonable opportunity of being heard and such decision shall be intimated to the applicant in writing mentioning appropriate grounds thereof.

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- (3) A person aggrieved by the refusal of application for certificate may apply to the Authority for review of the matter within 3 (thirty) days from the day of intimation of such decision.
- (4) The Authority shall reject the application for registration certificate if the fee prescribed by rules is not paid in the manner specified by regulations for each class and sub-class if insurance business and the receipt thereof is not submitted.

1. Suspension or cancellation of registration.—(1) The Authority may suspend or cancel the registration of an insurer, either wholly or in so far as it relates to a particular class or a sub-class of insurance business, on any one or more of the following grounds, namely:—

if the insurer—

- (a) fails to comply with the provisions of section 23 or 119 as to deposits;
- (b) does not commence business within 1 (one) year of being registered;
- (c) proposes to make or has made any understanding or arrangement with its creditors or has amalgamated or its insurance business has been wound up or otherwise dissolved or has gone into liquidation or is adjudged insolvent;
- (d) is carrying on its business in a manner likely to be detrimental to the interests of its policy-holders or to the development of the insurance industry or to be harmful to the national interest;
- (e) is unable to meet its obligation;
- (f) fails to maintain the solvency margin as specified by the regulations;
- (g) contravenes any provision of this Act or any rule or regulation made thereunder or fails to comply with any condition imposed or any direction given by the Authority;
- (h) is found involved in any immoral activity or malpractice or irregularity in the management of its affairs;
- (i) fails to effect satisfactorily reinsurance arrangements; or
- (j) does not pay any claim arising in Bangladesh upon it under any policy of insurance till 3 (three) months after the final judgment of any Court or direction or the Authority under this Act.

(2) The Authority may, for any one or more grounds specified in sub-section (1), by issuing a 3 (thirty) days' show cause notice to the insurer, suspend the registration granted to it for a period not exceeding 3 (three) months. It is prohibited for that insurer to issue new policy until such suspension order is withdrawn and its responsibility to meet obligations under policies already issued shall continue.

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- (3) On receipt of the response from the insurer to the notice sent under sub- section (2), the Authority may take the following measures, namely:—
- (a) immediate removal of suspension, where satisfied with the reason shown by the insurer in favour of removal of the suspension; or
 - (b) extension of the term of suspension already in force for a further period of not exceeding 2 (two) months or cancellaion of registration, where not satisfied with the reason shown by the insurer.
- (4) Where the Authority decides to extend suspension for a further period in accordance with clause (b) of sub-section (3), the Authority shall further inform the insurer about the following matters, namely:—
- (a) the period for which the suspension is extended; and
 - (b) the reason for such extension and the action that needs to be taken by the insurer to resolve the issue and its time limit.
- (5) If the Authority is not satisfied with the actions taken by the insurer under clause (b) of subsection (4), it shall forthwith cancel the registration of the insurer and if satisfied, it shall withdraw the suspension.
- (6) When the Authority decides to cancel any registration certificate under this section, it shall give notice in writing to the insurer of its decision within 15 (fifteen) days and the decision shall take effect on such date as may be specified in the notice.
- (7) An applicant may appeal against any kind of measures taken, and decision made, by the Authority under section 9, 1 and 11 to the Government within 9 (ninety) days from the day of being notified of such decision.
- (8) When a registration is cancelled under this section, the insurer shall not enter into any new contracts of insurance after the cancellation has taken effect:
Provided that all rights and liabilities in respect of contracts of insurance, entered into by the insurer before such cancellation taking effect shall, subject to the provisions of sub-section (11), continue as if the cancellation had not taken place.

ST RELIANCE ASSOCIATES

- (9) Where a registration is cancelled under sub-section (1), the Authority may at its discretion revive the registration upon satisfaction or the following grounds, namely :—
if the insurer—
- (a) makes the deposits required by section 23 or 119;
 - (b) has its standing contract restored;
 - (c) has complied with the requirement for the non-compliance or contravention of which the registration was cancelled under clause (g) of sub-section (1);
 - (d) keeps no claims under clause (j) of sub-section (1) unpaid; or

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(e) complies with the directions given by the Authority.

(1) Where the registration of an insurance company is cancelled under sub-section (1), the Authority may, after the expiry of 6 (six) months from the date on which the cancellation takes effect, apply to the Court for an order to wind up the insurance company, or to wind up any class of insurance businesses of the insurance company, unless the registration of the insurance company has been revived under sub-section (9) or an application for winding up the company has already been presented to the Court.

(11) The Court, considering the application under sub-section (1) to be an application made under section 13 and section 19, may proceed with.

11. Renewal of registration certificate.—(1) A registration certificate issued under section 9 is renewable and shall be renewed each year.

(2) An application for the renewal of a registration for any year shall be made by the insurer to the Authority before the 3th day of November of the preceding year which shall be accompanied by such fee as may be prescribed by rules.

(3) The Authority shall, subject to receipt of application made, and fees paid, by the insurer under sub-section (2), renew the registration.

(4) The Authority shall maintain a register for registration certificate and its renewal, suspension and cancellation and keep record of everything in relation thereto.

12. Alterations in the particulars furnished with application for registration to be reported.—(1) Whenever, after the registration of a company under section 9, any alteration or change occurs or is made so as to affect any of the document or particulars submitted with the application for registration or were required to accompany the application for registration, the insurer shall forthwith furnish to the Authority a certified statement of such alteration.

(2) If the alteration made under sub-section (1) relates to any life insurance policy and affects proposed insurance rate, benefits and terms and conditions, then an actuarial certificate is to be annexed with the statement of alteration.

13. Restrictions on registration of same insurer to transact both life and non-life insurance business.—An insurer shall not be registered—

(a) for life insurance business if already registered for any class of non- life insurance businesses; and

(b) for non-life insurance business if already registered for any class of life insurance businesses.

14. Licensing for establishing branch and office of insurer.—(1) No insurer shall, after this Act comes into force, establish a new branch or office and make any business transaction there from without obtaining a licence from the Authority.

(2) For obtaining a licence under sub-section (1) an insurer shall have to make an application in such form as may be prescribed by regulation, subject to payment of such fee as may be prescribed by rules.

(3) On receipt of an application for licence under this section, the Authority shall, considering

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the application, issue a licence to the insurer in the prescribed form for establishing a new branch or office.

(4) If an application is not found appropriate, the Authority may, after giving the applicant reasonable opportunity of being heard, refuse the application and shall communicate its decision of refusal, specifying the reasons, thereof, in writing to the applicant within 6(six) weeks from the date of taking such decision.

(5) A person being aggrieved by the refusal of licence under sub-section (4) may prefer an appeal against the refusal to the Government within 3(thirty) days from the date of his being notified of such decision and the decision passed by the Government on such appeal shall be final.

(6) If an appeal is preferred under sub-section (5), no fresh application shall be made for a licence to establish a branch or an office or making any business transaction in the same place until such appeal is disposed of.

(7) If an application or an appeal, as the case may be, for licence to establish a new branch or a new office and to make any business transaction therefrom is refused under this section, no fresh application for branch or office in the same place or transacting business therefrom shall be made within 1 (one) year from the date of refusal.

15. Restriction on name of insurer.—(1) An insurer shall not be registered by a name identical with or closely resembling to the name, which may mislead public perception or be considered deceiving, of an insurer registered under this Act or under the Insurance Act, 1938 before this Act comes into force, unless the existing insurer is in the course of being wound up and the consent of the registered insurer as to registration of any person as insurer in identical name or closely resembling name has already been notified to the Authority.

(2) If any insurer, inadvertently and unintentionally, is registered in a name which is identical with or closely resembling to an already registered insurer's name and the already registered insurer has no consent to this effect, in that case, if, upon the application of the insurer registered earlier and within the time-limit determined by the Authority, the insurer registered later does not change its name, it shall not be allowed to carry on any insurance business.

PREMIUM, INSURANCE AND RE-INSURANCE

16. Soundness of premium rates for life insurance.—(1) If, when considering an application for registration under section 8 or at any other time, it appears to the Authority that the premium rates, benefits, terms and conditions offered in connection with life insurance business are not acceptable or appropriate, it may require the insurer to make within such time as may be specified by it such modifications in the said rates, benefits, terms and conditions as the Authority thinks to render those acceptable and appropriate.

(2) No insurer shall issue a life insurance policy unless the premium rates, benefits and terms and conditions specified in the policy have been certified by its appointed Actuary as acceptable and proper.

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(3) If an insurer carrying on life insurance business wants to launch a new policy plan, it shall lodge with the Authority, together with its certification by the appointed Actuary, the prospectus or pamphlet containing full details and specimen policy plan as the Authority may specify, at least 3 (thirty) days before marketing it.

(4) If an insurer fails to comply with the provisions of sub-section (2) and (3), the Authority may impose fine which may extend to Taka 5 (five) lac on the concerned insurer for each such failure.

(5) The certificate issued by the appointed Actuary shall be in such form as may be prescribed by regulations.

(6) The Authority may specify the maximum interest rate and the maximum commission rate to be used in the premium rate.

(7) If the life insurance plan is not considered appropriate by the Authority, it shall take the following measures within the 3 (thirty) days as referred to in sub-section (3), namely :—

(a) prohibit the insurer from marketing the life insurance plan to the public; or

(b) direct the insurer to alter or amend the insurance plan as per direction of the Authority.

(8) The Authority may direct an insurer to furnish information relating to mortality of policyholders, rate of income on investments, level of management expenses and the level of commission paid, and the insurer shall comply with such direction.

(9) No insurer shall offer any policy or contract in respect of life insurance business other than those described in the prospectus filed with the Authority under clause (h) of sub-section (5) of section 8 or any amended statement under section 12 unless it files with the Authority the certificate in relation to the premium rates, benefits and terms and conditions of such policy in accordance with this section.

(1) The Authority shall, at intervals of ten years, prepare mortality tables indicating the average rate of mortality of the policy-holders.

17. Determination of premium rates for non-life insurance.—(1) The Authority may, for the purpose of this Act, constitute a Central Rating Committee (CRC) and determine the rates of premium for non-life insurance business in consultation with the Committee, and such insurer shall be bound to comply with such rates.

(2) The Central Rating Committee (CRC) shall be headed by the Chairman of the Authority and the number of its members and the powers, functions and management thereof shall be prescribed by regulations.

(3) The Government may, if necessary, dissolve the Central Rating Committee at any time.

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18. Provisions relating to collection of premiums.—(1) Every insurer shall declare to the Authority the total amount of outstanding premiums including agents’ balances, if any, in respect of fire, marine, and miscellaneous insurance business within 3 (thirty) days from the date this Act comes into force and shall recover the same within such time as may be specified by the Authority and comply with the direction given by the Authority in this respect.

(2) No insurer shall write off any premium in respect of non-life insurance business which is outstanding on the day this Act comes into force or any time thereafter without the prior approval of the Authority.

(3) No insurer shall undertake any insurance risk in Bangladesh in respect of non-life insurance business unless the premium payable or such part thereof as may be prescribed by rules has been received by it or has been guaranteed to be paid by such person in such manner and within such time as may be prescribed.

(4) Any refundable premium which becomes due to the insured on account of the cancellation of a policy of non-life insurance or alteration in its terms and conditions, shall be paid directly to the insured by a crossed order cheque or by money-order and a proper receipt thereof shall be obtained from the insured, and such refund shall in no case be credited to the account of the agent or broker.

19. Provisions relating to insurance abroad.—No person shall insure outside Bangladesh any risk in respect of any property or interests in Bangladesh unless a certificate has been obtained from the Authority to the effect that such risk cannot be covered in Bangladesh:

Provided that the Authority may grant an exemption to any person from the provisions of this section in respect of such property or interests for such period as it may deem fit:

Provided further that the Authority shall, if it refuses to grant a certificate under this section, communicate its decision in writing to the applicant within 15 (fifteen) days from the date of receipt of such application.

2. Provisions relating to re-insurance abroad.—(1) An insurer may, subject to such terms and conditions as may be prescribed by regulations, reinsure with other insure any liability in or outside Bangladesh arising out of executed and effected contract or policy of insurance in order to ensure that the interests of the policy-holders and the insurers are adequately safeguarded.

(2) The Authority may, by a written notice, direct any re-insurer to furnish necessary information that may ascertain whether it has adequate funds or assets to satisfy claims under policy, if needed.

(3) The Authority may, from time to time, by notification in the official Gazette, prohibit all insurers from reinsuring, with any specified re-insurer in or outside Bangladesh, risks upon policies or contracts of insurance issued or effected in respect of insurance business transacted by them in Bangladesh, where any such arrangement with that re-insurer is detrimental to the national interest: Provided that before issuing any notification under this sub-section, the Authority shall inform the insurers and re-insures who are carrying on re- insurance business with such specified re-insurer in or outside Bangladesh, of its intention to issue such notification, and shall consider the application, if any made by such insurer or insurers, with reference to the notification to be issued.

CAPITAL AND DEPOSITS

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21. Requirement as to capital and share holdings.—(1) No insurer, other than insurers who had been transacting any class of insurance business in Bangladesh before this Act coming into force, shall be registered after this Act coming into force transacting any class of insurance business unless it has a minimum paid-up capital of the amount specified in the Schedule-1 and its shares have been paid up in such manner as may be prescribed by rules:

Provided that Government may, if necessary, by notification in the official Gazette, increase or decrease the amount of paid-up capital:

Provided further that the sponsors shall deposit full amount of their contribution to the paid up capital in any Scheduled Bank in Bangladesh unencumbered in the name of the company before applying for registration and shall keep it deposited unencumbered.

(2) After submission of application for registration of the insurer or thereafter in future, no withdrawal, except the interest earned on the deposit, shall be made from the account of the deposit of paid up capital referred to in sub- section (1) without the written permission of the Authority, and no lien on the paid up capital of insurer shall be created except in favour of the Authority, without the written permission of the Authority.

(3) An insurer, incorporated in or outside Bangladesh before the commencement of this Act, shall have to fulfill the requirements of its capital under sub-section (1) within such period as may be prescribed by rules.

22. Foreign sponsor’s share.—Any foreign sponsor may, subject to such conditions as may be prescribed by rules, subscribe to, or hold the shares of, an insurance company and the shares held by him shall not exceed the maximum limit to be determined by the Government.

23. Deposit.—(1) Every insurer registered before the commencement of this Act or desired to be registered after the commencement of this Act shall, at the time of making an application for registration under this Act, deposit and keep deposited with the Bangladesh Bank the amount as specified in Schedule-1, either in cash or in approved securities estimated at the market value of the securities on the day of the deposit, or partly in cash and partly in approved securities so estimated.

(2) The amount deposited under sub-section (1) shall be held to the credit of the insurer and if such amount becomes refundable in favour of the insurer, the insurer shall, except to the extent to which the cash has been invested in securities upon the application of the insurer, be entitled to it and any interest accrued to the securities deposited shall also be payable to the insurer:

Provided that the commission chargeable for the realization of interest on securities shall be deductible at such rate as may be determined by Bangladesh Bank, from time to time.

(3) The insurer may, at any time, replace any securities deposited under this section with the Bangladesh Bank either by cash or by other approved securities or partly by cash and, partly by other approved securities, provided that such cash, or the value of such other approved securities estimated at the market rates prevailing at the time of replacement, of such cash together with such value, as the case may be, is not less than the value of the securities replaced estimated at the market rates prevailing when they were deposited.

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- (4) The Bangladesh Bank shall, if so applied by the insurer—
- (a) sell any securities deposited by the insurer with the Bank under the section and hold the cash realised by such sale as deposit, or
 - (b) invest in government securities the whole or any part of a deposit held by it in cash or the whole or any part of cash received by it on the sale of or on the maturing of securities as specified by the insurer and may charge such commission as may be specified by it on such sale and on such investment.
- (5) Where the provision of sub-section (4) applies—
- (a) if the cash realised by the sale of or on the maturing of the securities excluding the interest accrued falls short of the market value of the securities at the date on which they were deposited with the Bank, the insurer shall make good the deficiency by a further deposit either in cash or in government securities estimated at the market value of the securities on the day on which they are deposited, or partly in cash and partly in government securities so estimated, within a period of 2 (two) months from the date on which the securities matured or were sold, otherwise the insurer shall be deemed to have contravened the requirements of this section as to deposits;
 - (b) if the cash realised by the sale of or on the maturing of the securities excluding the interest accrued exceeds the market value of the securities at the date on which they were deposited with the Bank, the Authority shall take necessary measures through the Bangladesh Bank to facilitate the refund of excess cash to the insurer; and
 - (c) if any part of a deposit made under this section is used in the discharge of any liability of the insurer, the insurer shall deposit such additional sum in cash or in government 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, and unless the deficiency is made good within a period of 2 (two) months from the date when the deposit or any part thereof is so used for discharge of liabilities, the insurer shall be deemed to have contravened the requirements of sub-section (1).

24. Reservation of deposits.—The deposits of the insurer shall be reserved in the following manners, namely:—

- (a) any deposit made under section 23 or section 119 shall be deemed to be part of the assets

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of the insurer;

- (b) the deposit shall not be susceptible to any assignment or charge;
- (c) deposits shall not be used for the discharge of any liability of the insurer other than unresolved liabilities arising out of policies of insurance issued by the insurer; or
- (d) deposits shall not be attached in execution of any decree except obtained by a policy holder of the insurer in respect of liability arising out of policy which the holder has failed to realise in any other way.

25. Refund of deposits.—Where an insurer has ceased to carry on any class of insurance business in Bangladesh in respect of which a deposit has been made under section 23 or section 119, and its liabilities in Bangladesh in respect of business of that class have been satisfied or are otherwise provided for, the Authority may, on the application of the insurer, return the insurer such deposit.

ACCOUNTS, AUDIT, ACTUARIAY REPORT AND RETURNS

26. Separate accounts and funds.—(1) An insurer, under this Act or the rules made there under, shall keep separate accounts of all receipts and payments in respect of each class and, as the case may be, sub-class of insurance business, either alone or jointly, whatever the manner of business may be.

(2) Where the insurer carries on life insurance business, all receipts due in respect of such business, shall be deposited to a separate fund to be called the life insurance fund.

(3) A detailed statement of the deposited money and assets in the fund referred to in subsection (2) shall be furnished to the Authority duly certified by the auditor in accordance with regulations within 6 (six) months after the end of every calendar year.

(4) The Life Insurance Fund shall be solely for the security of the life insurance policyholders and shall not be liable for any contracts other than life insurance and shall not be used directly or indirectly for any purposes other than life insurance business.

27. Account, balance-sheet, etc.—(1) Under this Act, every insurer in respect of all classes of insurance business transacted by it in Bangladesh, shall prepare the following statements at the expiration of each calendar year with reference to that year, namely:—

- (a) a balance sheet in the manner and table set forth in the regulations;
- (b) a profit and loss account in accordance with the table set forth in the regulations;
- (c) a revenue account in the form set forth in the regulations applicable for that class or subclass of insurance business where an insurer is required under this Act to keep a separate account of receipts and payments in accordance with the nature of insurance business; and
- (d) a statement containing the names and description of persons engaged in the management of insurance business during that period and a report mentioning all information regarding their business activities.

(2) The balance-sheet, profit and loss account, revenue account and report referred to in subsection (1) shall be signed, if the insurer is a company under the Company Act, by the Chairman, two directors and the Chief Executive Officer of the company, or, if the insurer is a cooperative society under the Cooperative Society Act, by two of its members.

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(3) Every insurer shall keep separate accounts relating to funds of shareholders and policyholders according to regulations.

28. **Audit.**—(1) The balance-sheet, profit and loss account, revenue of any insurance business carried on and transacted in Bangladesh, shall, unless they are subject to audit under the Company Act, be audited annually by one or more Auditors.

(2) An Auditor appointed under this section shall have the authority to exercise the powers and perform the functions vested in Auditors under section 213 of the Company Act.

29. **Special audit.**—(1) Notwithstanding anything contained in any other provisions of this Act, the Authority may have all the transactions, records, documents in relation to insurance of any or all insurance companies carrying on insurance business in Bangladesh audited by one or more Auditors from time to time in the manner prescribed by regulations :

Provided that the Auditor appointed under this section for any year and the Auditor appointed under section 28 shall not be the same person.

(2) An Auditor appointed under this section shall have the right to inspect all records, books of account, registers, vouchers, correspondence and all other documents of the insurer in relation to insurance business and for this purpose shall be entitled to hear from any director, officer and employee of the insurer and summon any relevant document and information from the insurer.

(3) An Auditor appointed under this section shall prepare an audit report and shall submit the report in quadruplicate to the Authority within 4 (four) months from the date of his appointment.

(4) An Auditor appointed under this section shall be paid by the insurer such fee as may be determined by the Authority.

3. **Actuary report and abstract.**—(1) Every insurer carrying on life insurance business shall, at least once in every year cause an investigation to be made by an Actuary into the financial condition of the life insurance business carried on by it, including a valuation of its liabilities in such manner as may be prescribed by regulations and shall cause an abstract of the actuarial report to be made in such form and manner as may be prescribed in regulations :

Provided that the Authority may, having regard to the particular circumstances of any insurer, allow it to have the investigation under this section made at any date not later than 2 (two) years from the date on which the previous investigation was made.

(2) The provisions of sub-section (1) regarding the making of an abstract shall apply whenever at any time an investigation into the financial condition of the insurer is made with a view to the distribution of profits or an investigation is made of which the results are made public.

(3) There shall be appended to every such abstract a certificate signed by the Chief Executive Officer of the insurer that full and accurate particulars of every policy under which there is a liability either actual or contingent have been furnished to the actuary for the purpose of the investigation.

(4) There shall be a statement appended to every such abstract, in accordance with the regulations, in respect of the life insurance business at the date to which the accounts of the insurer are made up for the purpose of such abstract :

Provided that, if the investigation referred to in sub-section (1) and (2) is made annually by any

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insurer, the statement need not be appended every year but may be appended once in every 3 (three) years.

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

(6) The provisions of this section relating to life insurance business shall apply also to accident and health insurance business :

Provided that if the Authority is satisfied that the number and amount of the transactions carried out by an insurer in health insurance business is very small, it may exempt that insurer from the provision of this sub-section in respect of health insurance.

(7) The valuation of liabilities under sub-section (1) of this section shall be carried out in such manner and on such basis that the calculated actuarial reserves are not less than the actuarial reserves calculated in such manner and on such basis as may be prescribed by regulations.

31. Register of policies and claims.—Every insurer in respect of insurance business transacted by him in Bangladesh shall maintain a register of all policies and claims in such manner as may be prescribed by regulations.

32. Submission of returns.—(1) The accounts and balance sheet under section 27 and audited accounts of liability valuation report, the abstract and statement under section 3 shall be printed, and four copies thereof shall be furnished as returns to the Authority in the case of the accounts, balancesheet etc. under section 27 and sub-section (5) of section 3 within 6 (six) months and in the case of liability valuation report, the abstract and statement referred to in section 3 within 9 (nine) months from the end of the period to which they refer :

Provided that the said period of 6 (six) months may be, in the case of insurers having their principal place of business or domicile outside Bangladesh and in the case of insurers constituted, incorporated and domiciled in Bangladesh but also carrying on business outside Bangladesh, extended by 3 (three) more months :

Provided further that the Authority, if it deems necessary, may extend the time allowed by this sub-section for the furnishing of such returns by a further period not exceeding 1 (one) month.

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(2) Out of the 4 (four) copies so furnished under this section, 1 (one) shall be signed, in the case of a company, by the chairman and 2 (two) directors and by the Chief Executive Officer of the company and, if the company has a managing director by that director, in the case of a co-operative society, by 2 (two) of its members; and 1 (one) copy shall be signed by the auditor who made the audit or the actuary who made the valuation, as the case may be.

(3) Where the insurer’s principal place of business or domicile is outside Bangladesh, he shall forward to the Authority, along with the documents referred to in section 27, the balance-sheet, profit and loss account and revenue account and the valuation reports and statements, if any, which the insurer is required to file with the public authority of the country in which the insurer is constituted, incorporated or domiciled, or, where such documents are not required to be filed, a certified statement showing the total assets and liabilities and the total income and expenditure of the insurer at the close of the period covered by the said documents.

[(4) Notwithstanding anything contained in this Act, it shall be the responsibility of an insurer established as “public-interest body” in such meaning as defined in section 2(8) of the Financial Reporting Act, 215 to submit the required documents to the Authority along with the auditor’s report prepared by following the financial standards and auditing standards set forth in accordance with section 4 of the said Act.

(5) The Authority shall not accept any annual report unless it is presented with the report of any enlisted auditor.]

33. Exemption from certain provisions of the Company Act.—If it is not contradictory to the Company Act, where an insurer, being a company incorporated under the Company Act or under any other Act repealed thereby, in any year furnishes its balance-sheet and accounts in accordance with the provisions of section 32, it may at the same time send to the Registrar of Companies copies of such balance-sheet and accounts and where such copies are so sent it shall not be necessary for the company to file copies of the balance- sheet and accounts with the Register as required under the Company Act, and such copies so sent shall be chargeable with the same fee and shall be dealt with all respects as if they were filed in accordance with the abovementioned section.

sub-sections (4) and (5) are inserted by section 63 of the Financial Reporting Act, 215.

34. Furnishing reports.—Every insurer shall furnish a certified copy of the report to the Authority on the affairs of insurance business immediately after submitting it to the shareholders or policy-holders of the insurer.

35. Abstract of proceedings of Annual General Meetings.—Every insurer shall furnish a certified copy of the minutes of the proceeding of every general meeting to the Authority as entered in the Minutes Book of the insurer within 3(thirty) days from the holding of the meeting to which it relates.

36. Custody and inspection of documents and supply of copies.—(1) Every return furnished to the Authority and a certified copy of the statement thereof shall be kept by the Authority and shall remain open to inspection and any person may procure a copy of any such return, or of any part thereof, on payment of fee as specified by the Authority.

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(2) A printed or certified copy of the accounts, statements and abstract furnished in accordance with the provisions of sections 32 shall on the application of any shareholder or policy-holder made any time within 2(two) years from the date on which the documents were so furnished, be supplied to him by the insurer within 14 (fourteen) days where the insurer is incorporated, registered and domiciled in Bangladesh and in case of other insurers within 1 (one) month of such application.

(3) A copy of the memorandum and articles of association of the insurer, if a company, shall on the application of any policy-holder, be supplied to him by the insurer within 15 (fifteen) days of such application on payment of such fee as may be specified by the Authority.

37. Powers of the Authority regarding returns.—(1) If it appears to the Authority that any return furnished to it under the provisions of this Act is inaccurate or defective in any respect, it may—

- (a) require from the insurer such further information, certified if it so directs by an auditor or actuary, as it may consider necessary to correct or supplement such return;
- (b) call upon the insurer to submit for its examination at the principal place of business of the insurer in Bangladesh any book of account, register or other document or to supply any statement which it may specify in a notice served on the insurer for the purpose;

(c) examine any officer of the insurer in relation to the return;

(d) decline to accept any such return unless the inaccuracy has been corrected or the deficiency has been supplied before the expiry of 1(one) month from the date on which the requisition asking for correction of the inaccuracy or supply of the deficiency was delivered to the insurer.

(2) If the Authority declines to accept any such return under clause (d) of sub-section (1), the insurer shall be deemed to have failed to furnish returns in accordance with section 32.

38. Power of the Authority to order revaluation.—(1) If it appears to the Authority that for following defective procedure followed, investigation or Valuation reports under section 32 do not properly indicate the condition of the affairs, if may, after giving notice to the insurer and giving him an opportunity to be heard, direct a reinvestigation and revaluation within a date specified by the Authority to be made at the expense of the insurer by an Actuary appointed by the insurer and approved by the Authority and the insurer shall place at the disposal of the Actuary all materials required by the Actuary for the purpose of the investigation and valuation within a period not exceeding 3(three) months as the Authority may specify.

(2) The provisions of sub-sections (1) and (3) of section 3, and of sub- section (1) and (2) of section 32 shall apply in relation to an investigation and valuation under this section:

Provided that the abstract and statement prepared as the result of such investigation and valuation shall be furnished by such date as the Authority may specify.

39. Evidence of documents.—(1) Every return furnished to the Authority, if certified by the Authority to be a return, shall be deemed to be a return so furnished.

(2) If a return furnished under sub-section (1) is certified as a return by the Authority, every document included therein shall be deemed to be a copy of that return and shall be received in evidence as if it were the original return, unless some variation between it and the original return is proved.

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4. Returns to be published in statutory forms.—No insurer shall—

(a) make or cause to be made any estimate, illustration, circular or statement misrepresenting any policy issued or to be issued or the benefits promised thereby or the bonuses, shareholders dividends or share of the surplus to be received thereon, or make any false or misleading statement as to the bonuses, shareholders dividends or share of surplus previously paid on similar policies or make any misleading representation or any misrepresentation as to the financial condition of any insurer or use any name or title of any insurer or use any name or title of any policy or any class of policies misrepresenting the true nature of any policy or any class of policies or make any misrepresentation to any policy-holder insured in any company for the purpose of inducing or tending to induce such policy-holder to lapse, forfeit or surrender his insurance; and

(b) make, publish, disseminate, circulate or place before the public, or cause directly to be made, published, disseminated, circulated or placed before the public in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet or poster or in any other manner any advertisement, announcement or statement on any person engaged in insurance business, which is false, untrue, deceptive, misleading or calculated to injure any person engaged in the business of insurance:

Provided that nothing contained in this section shall prevent an insurer from publishing any return in a form in which it has been furnished to the Authority or a true and accurate abstract from such returns or any other factual statement for the purposes of publicity.

41. Investment of assets.—(1) Every insurer shall invest and maintain its assets in such manner and place, as may be prescribed by regulations, and the Authority shall power to regulate such investment:

Provided that no investment shall be permissible in the first issue of capital by a company, firm or other business concern in which any of the directors of the insurer or any member of the family of such director has any interest as proprietor, partner, director, manager or managing agent.

(2) Every insurer shall submit a return on such investment under sub- section (1) in such manner as may be prescribed by regulations.

42. Subsidiary Companies.—(1) The Authority may permit an insurer to form one or more

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subsidiary companies for the purpose of undertaking such business as it may deem to be conducive to the promotion and development of insurance business in Bangladesh, or necessary in public interest or useful in any other way.

(2) Save as provided in sub-section (1), no insurer shall hold shares in any company exceeding the amount as specified in the regulations.

SOLVENCY MARGIN, LOANS AND MANAGEMENT

43. Solvency margin requirements.—(1) Every insurer shall maintain a solvency margin in respect of its insurance business of such amount and in such manner as may be prescribed by regulations.

(2) If an insurer, at any time, does not maintain the required solvency margin in accordance with the provisions of sub-section (1), it shall, as per the directions issued by the Authority in this regard, submit a plan of action to make good then deficiency to the Authority within a specified period not exceeding 3(three) months from the date of issue of such directions.

(3) If a plan submitted under sub-section (2) is considered inadequate by the Authority, the insurer shall modify the plan and give effect to the plan approved by the Authority.

(4) The Authority shall have the power to inspect or verify the assets and liabilities of any insurer or secure other essential particulars to examine whether the requirements of solvency margin have been complied with and the insurer shall be bound to comply with any directions issued by the Authority in this regard, and if it fails to do so within 2(two) months from the receipt of such directions, it shall be deemed to have made default in complying with the requirements of solvency margin and in that case action shall be taken in accordance with section 95 of this Act.

(5) Every insurer transacting life insurance business shall furnish to the Authority a statement certified by an actuary, of the required solvency margin maintained by the life insurer in such manner as may be prescribed by regulations.

(6) Every insurer transacting non-life insurance business shall furnish to the Authority a statement certified by an approved auditor, of the required solvency margin maintained by the nonlife insurer in such manner as may be prescribed by regulations.

44. Restrictions on grant of loan, advance and financing facility.—(1) No insurer shall grant an advance, a loan or a financing facility against the security of its own shares.

(2) No insurer shall grant to any director, manager, actuary, auditor or officer of the insurer or to any member of their family any loan or temporary advance, either on hypothecation of property or on personal security or otherwise, except a loan on life policies issued by the insurer within the surrender value.

(3) Except with the permission of its Board of Directors and approval by the Authority, no insurer shall grant any loan or temporary advance to any firm or company in which any director, manager, actuary, auditor or officer of the insurer, or member of the family of such director, manager, actuary, auditor or officer, has any interest as proprietor, partner, director, manager or managing agent.

(4) The concerned director receiving loan shall not vote at, or otherwise participate in, the proceedings of the Board of Directors considering the grant of any such loan or advance as is referred

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to in sub-section (2).

(5) Where any event occurs giving rise to circumstances the existence of which at the time of the grant of any subsisting loan or temporary advance would have made such grant a contravention of sub-section (1) of sub-section(2) of this section, such loan shall, notwithstanding any contract to the contrary, be repaid within 3 (three) months from the occurrence of such event and, in case of default the director, manager, actuary, auditor or officer concerned shall, without prejudice to any other penalty to which he may be liable, cease to hold office with the insurer granting the loan or advance on the expiry of the said 3(three) months.

(6) Nothing in sub-section(1) or sub-section(2) shall apply to loans or advances granted by an insurer to a banking company or to a subsidiary company being an insurer or to any insurer to which the insurer granting the loan or advance is a subsidiary company.

(7) Nothing in sub-section(1) of this section shall apply to any stipend paid to any insurance agent or broker or employer of agents while he is undergoing a training course approved by the Authority.

(8) The provisions of the Company Act shall not apply to a loan granted to a director of an insurer being a company, if the loan is none granted on the security of a policy on which the insurer bears the risk and the policy was issued to the director on his own life, and the loan is within the surrender value of the policy.

(9) Subject to the provisions of sub-section(1) no insurer shall grant to any officer, employee, insurance agent or broker or employer of agents any loan or temporary advance except—

(a) loans on life policies issued by him to an officer, employee, insurance agent or broker or employer of agents within their surrender value;

(b) loans on mortgage of immovable property provided that—

(i) the Authority certified that the insurer, if it transacts life insurance business, has complied with all the provisions of this Act;

(ii) the value of the property is at least twice the amount of the loan;

(iii) the property is situated in such towns as may be notified in this behalf;

(iv) the loan is made in such installments as may be decided by the Board of Director of the insurer if the purpose of the loan is to construct a house;

(v) the loan is repayable within a period not exceeding 15 (fifteen) years; or

(vi) the loan is of such amount that the installment of capital and interest does not exceed one-fourth of the basic salary of the officer or employee or one-fourth of the renewal commission or over-riding commission of an agent or broker or an employer of agents, as the case may be, during a year;

(c) loans for the purchase of a conveyance to an officer, employee, insurance agent or employer of agents provided that—

(i) the officer, employee, insurance agent or employer of agents has served the insurer continually for such period as may be decided by the Board of Directors of the insurer;

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(ii) the conveyance purchased is mortgaged to the insurer;
(iii) the loan does not exceed such amount, and allowed subject to such conditions as to the time allowed for its repayment, as may be decided by the Board of Directors of the insurer:

Provided that the total loan referred to in sub-clause (iv) of clause (b) and clause (c) of this section shall not exceed 1 (ten) percent of the net profit of the preceding year of the non life insurer after payment of income tax:

Provided further that the amount of 1 percent loan referred to in the first proviso shall under no circumstances exceed 2 percent of the insurer's paid up capital;

(d) temporary advances to an officer, employee, insurance agent or employer of agents not exceeding,—

(i) in the case of an officer and employee, 4 (four) months salary;

(ii) in the case of an insurance agent, the renewal commission earned by him during 2 (two) years immediately preceding the date of application for the advance, or a sum not exceeding a specified amount if he has not earned renewal commission;

(iii) in the case of an employer of agents, the renewal commission and the over-riding renewal commission earned by him during the year immediately preceding the date of application for the advance, or not less than a specified sum if he has not earned renewal commission and over-riding renewal commission:

Provided that, in respect of the life insurance business of an insurer, the total temporary advances referred to in this clause shall not exceed at any time a specified percentage of the life insurance fund subject to a specified maximum amount in any other case.

45. Liability of directors and others for loss.—If by reason of a contravention of any of the provisions of section 44 any loss is sustained by the insurer or by the policy-holders, any director, manager or officer who is knowingly a party to such contravention shall, without prejudice to any other penalty to which he may be liable under this Act, be jointly and severally liable to make good the amount of such loss.

46. Assets of insurer how to be kept.—None of the assets of any insurer shall, except in the

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case of deposits made with the Bangladesh Bank under section 23 or section 119 and deposits with a scheduled bank acting as a custodian, be kept otherwise than in the corporate name and under the direct control of the insurer.

47. Restrictions on the appointment of managing agent.—No insurer shall after the commencement of this Act, appoint a managing agent for the conduct of its business.

INVESTIGATION, DIRECTIVES, ETC.

48. Investigation of affairs of an insurer.—(1) The Authority may institute an investigation into the whole or any part of the business carried on by an insurer registered under this Act, if it appears to the Authority that—

- (a) the insurer is or likely to become unable to meet its obligations;
- (b) the insurer has failed to comply with any provisions of this Act relating to insurance funds;
- (c) the insurer, having been given notice under section 49, has not, within 1 (one) month thereafter furnished the required information fully and satisfactorily;
- (d) the insurer has failed to comply with any provisions of sections 27, 3, 41, 43 and 44;
- (e) the expenditure of insurance business or expenditure in procuring, maintaining or administering any class of insurance business of the insurer is unduly high in relation to the income derived from insurance premium;
- (f) no appropriate method was followed by the insurer in apportioning expenditure or particular class of expenditure between insurance fund and any other fund; or
- (g) any information in the possession of the Authority calls for such an investigation.

(2) Before instituting an investigation under this section, the Authority shall serve on the insurer a notice in writing specifying that before the completion of any investigation under this section the insurer shall not under any circumstances, save with the prior written approval of the Authority, dispose of any assets vested in or accruing to the insurer.

Explanation.—For the purposes of this section, assets include but are not limited to the following assets—

- (a) immovable assets, namely any land, building and any object firmly affixed thereto;
- (b) movable assets, namely any furniture, equipments, books, periodicals and any other movable items, any motor vehicles, vessels, ships, aircrafts and other means of conveyance of whatever description;
- (c) investments, namely any state and local Government securities and any other securities as approved by the Government of competent Authority;
- (d) other investments, namely stocks, shares, bonds, debentures and intual funds that are quoted in any stock exchange or investments unquoted;
- (e) cash, namely any cash deposited in any bank lending institution or placed with any other bodies or agencies including any determinable amount of cash in hand;
- (f) other assets, namely any outstanding premium, commission and debt, advance, securities, deposit and security payment of which is due or payable and rights contractual

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or otherwise accruing to or vested in the insurer.

(3) The Authority may itself make the investigation or may direct an investigator appointed in accordance with sub-section (4) to conduct the investigation and submit a report within Seven (7) working days in the form of a report.

(4) The Authority may appoint an auditor other than the auditor who prepares statements of account or other statements of the insurer under section 27, an actuary, or any other suitable person to be an investigator to carry out the investigation under this section and the cost of such investigation shall be paid by the insurer.

(5) In making an investigation under this section, the Authority or investigator may direct—

(a) the insurer, or any person in charge thereof on behalf of the insurer; or

(b) any person who is or has at any time been or acted as a director, actuary, auditor, officer, employee or agent of the insurer; or

(c) any past or present participant of the insurer,

to produce or allow him to have access to and to copy the whole or any part of, any books, accounts, records, or other documents of the insurer, whether kept in Bangladesh or elsewhere, including documents evidencing the insurer's title to any assets :

Provided that a requirement under this sub-section shall extend only to documents relating to business carried on by the insurer in Bangladesh, or evidencing the insurer's title to assets held for the purposes of any such business.

(6) In making an investigation under this section, the Authority or investigator may require any such individual as is specified in sub-section (5) to attend before him and make presentation or be examined with respect to the insurer's business.

(7) On receipt of any report under this section and after giving opportunity to the insurer to make application in connection with the report the Authority shall, if it deems fit—

(a) direct the insurer to take effective action in respect of any matter referred to in the report; or

(b) cancel the registration of the insurer; or

(c) direct any person to apply to the Court for the winding up of the insurer, whether the registration of the insurer has been cancelled in accordance with clause (b) or not.

(8) The Authority if necessary may after giving reasonable notice to the insurer publish the report, of investigation by the Authority or submitted by the investigator under this section or such portion thereof.

(9) No order made under this section other than an order made under clause

(b) of sub-section (7) shall be sued against or called in question in any Court.

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(1) If any person refuses or fails, when required to do so under sub-sections (5) or (6), to produce any document in his custody or power or to attend for or submit to examination by the Authority or investigator, the Authority or investigator may certify the refusal under his hand to the Court; and the Court may thereupon enquire into the issue and after hearing any witnesses who may be produced against or in favor of the accused and after hearing any statement which may be offered in defense, punish the offender in like manner as if he had been guilty of contempt of the Court.

49. Power of inspection and call for information, etc.—(1) The Authority may from time to time inspect the books, accounts and transactions of any insurer and of any of its branch offices.

(2) For the purposes of an inspection under sub-section (1), the insurer shall allow the Authority access to his books, accounts and documents and shall give such information and facilities as may be required to conduct the inspection.

(3) Where the Authority is of the opinion that it is necessary for the purposes of this Act, it may by notice in writing, if found necessary, require any director, officer or representative of any insurer, in connection with any matter related to any business carried on by that insurer in or outside Bangladesh in such manner as may be prescribed by regulations at the time and place as specified in the notice, to—

- (a) furnish him with any information; or
- (b) direct to appear before him.

(4) Any person who refuses to allow an inspection under sub-section (1), or contravenes any provision of sub-section (2), or fails to comply with any requirement of the Authority under subsection (3), shall be guilty of an offence and shall, on conviction, be liable to fine not exceeding Taka 5 (five) lac and shall also be liable to a further fine not exceeding Taka 5 (five) lac for every day during which the offence is continued.

5. Power of the Authority to give directions to the insurer.—(1) Where the Authority is satisfied that the affairs of an insurer are likely to be detrimental to the public interest, the interests of the policy-holders, or the interest of the insurer, the Authority may issue such directions to the insurer as it considers

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necessary and may in particular require the insurer the following actions, namely :—

- (a) to take such action or engage such competent manpower as may be necessary to enable the insurer to conduct its business in accordance with the provisions of this Act;
- (b) to remove the chairman, any director, adviser, chief executive officer, by whatever name called, whom the Authority has reason to believe that holding the office of such person has contravened the provisions of any law and that the contravention is of such a nature

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that the association of such person with the insurer is or is likely to be detrimental to the interests of the insurer or of the policy- holders, or is otherwise undesirable, after giving such persons an opportunity of being heard:

Provided that if, in the opinion of the Authority any delay would be detrimental to the interest of insurer or its policy-holders, it may at the time of giving the aforesaid opportunity of being heard or at any time thereafter while an application is made for aforesaid opportunity of being heard, if filed, by order direct that, pending the consideration of the representation aforesaid, the director or, as the case may be, the Chief Executive Officer shall not, with effect from the date of such order,—

- (i) act as such director or the Chief Executive Officer of the insurer;
- (ii) in any way, whether directly or indirectly, be connected with or take part in the management of the insurer;
- (c) not to take any action as to the disposal or recovery of its assets;
- (d) not to take any step for the recovery by the insurer of sums appearing to the Authority to have been illegally or improperly paid;
- (e) to refrain from issuing new policy or renewal thereof in relation to the class of insurance business as referred to in the order.

(2) The Authority may modify or cancel any direction issued under sub- section (1) and in so doing may impose such conditions, as it thinks fit.

(3) Every insurer shall comply with any direction under sub-section (1) or such direction as modified under sub-section (2) of this section subject to the fulfillment of all conditions.

51. Power of the Authority to require an insurer to call the meeting of its directors

etc.—The Authority may, during the course, or after the completion of special audit investigation conducted under this Act, by order in writing and on such terms and conditions as may be specified therein, require to take the following actions, namely:—

- (a) calling a meeting of the Board of Directors for the purpose of discussing any matter relating to or arising out of the affairs of the insurer;
- (b) discussing on any matter pertaining to insurance with the Chief Executive Officer of the insurer or any of its officer;
- (c) allowing any officer deputed for the purpose to watch the proceedings of, and to speak at any meeting of the Board of Directors of the insurer or of any committee or other body constituted by the insurer and directing to furnish such officer with a copy of the proceedings of such meeting;
- (d) allowing any officer appointed or deputed for the purpose to observe for a specified period which may be extended from time to time the manner in which the affairs of the insurer or of any of its offices or branches are being conducted;
- (e) making within such time as may be specified such changes in the management , as the Authority may consider necessary to put the affairs of the insurer in order.

AMALGAMATION AND TRANSFER OF INSURANCE BUSINESS

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52. Amalgamation and transfer of life insurance business.—(1) Notwithstanding anything contained in the Company Act or in the Article of Association of insurer the following provisions shall apply in the case of merger and transfer of life insurance business, namely:—

(a) no life insurance business of an insurer incorporated outside Bangladesh shall be merged with any person or any other insurer except in accordance with a scheme prepared under this section and approved by the Authority;

(b) any scheme prepared under this section shall include the conditions in detail under which the transfer or merger will be proposed. Necessary provisions for giving effect to the scheme shall also be included;

(c) before an application is made to the Authority to approve any such transfer or amalgamation, a letter of intent together with a statement of the nature of the merger or transfer and of the reason there for shall, at least 2(two) months before the application is made, be filed to the Authority and certified copies, 4(four) in number, of each of the following documents shall be furnished to the Authority and 2(two) other copies shall be kept open for the inspection of the public and policy-holders at the principal and branch offices and agencies of the insurer concerned, namely:—

(i) a draft instrument for proposed amalgamation or transfer;

(ii) balance-sheets in respect of the insurance business of each of the insurers concerned in such amalgamation or transfer, prepared in the form as specified by the Authority and in accordance with the regulations;

(iii) actuarial reports and abstracts in respect of the life insurance business of each of the insurers so concerned, prepared in conformity with the requirements of the Authority and in accordance with the regulations;

(iv) a report on the proposed merger or transfer prepared by a neutral Actuary who has never been professionally connected with any of the parties concerned in the amalgamation or transfer at any time in the 5(five) years preceding the date on which he signs his report; and

(v) any other reports on which the merger or transfer was founded.

(2) The balance-sheets, reports and abstracts referred to in clause (c) of sub-section (1) shall be prepared as at the date on which the amalgamation or transfer, if approved by the Authority, is to take effect, which date shall not be more than 12(twelve) months before the date on which application to the Authority is made under this section :

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Provided that if the Authority so directs in the case of any particular insurer there may be substituted respectively for the balance sheet, report and abstract referred to in sub-clauses (ii) and (iii) of clause (c) of sub-section (1), certified copies of the last balance-sheet and last report and abstract prepared in accordance with this Act, if that balance-sheet is prepared as at a date not more than 1 (one) year, and that report and abstract as at a date not more than 5(five) years before the date on which the application to the Authority is made under this section.

53. Approval of amalgamation and transfer by the Authority.—(1) When any application under clause (c) of sub-section (1) of section 52 is made to the Authority, the Authority shall cause, if for special reasons it so directs, notice of the application to be sent to every person resident in Bangladesh who is the holder of a life policy of any insurance concerned and shall cause a statement of the nature and terms of the amalgamation or transfer, to be published in such manner and for such period as it may determine, and after hearing the directors and such policy-holders as willing to be heard and other persons whom it considers entitled to be heard, if it is satisfied that objection as to the arrangement or transfer is not maintainable, it shall make orders as are necessary to give effect to the proposed arrangement, including orders as to the disposal of any deposit made under section 23 or section 119.

Provided that—

- (a) no part of the deposit made by any party to the merger or transfer shall be returned except where, after effect is given to the arrangement, the whole of the deposit to be made by the insurer carrying on the amalgamated business or the person to whom the business is transferred is completed;
- (b) only so much shall be returned as is no longer required to complete the deposit mentioned in clause (a); and
- (c) while the deposit mentioned in clause (a) remains incomplete, no accession, resulting from the arrangement, to the amount already deposited by the insurer carrying on the amalgamated business or the person to whom the business is transferred shall be appropriated as payment or part payment of any installment of deposit subsequently due from him under section 23 or section 119.

(2) If the arrangement involves a reduction of the amount of the insurance and other contracts of the transferor insurer or of any or all of the insurers concerned in the amalgamation, the Authority may approve the arrangement reducing the amount of such contracts upon such terms and subject to such conditions as it may think proper, and the reduction of contracts as approved by the Authority shall be valid and binding on all the parties concerned.

54. Statements required after amalgamation and transfer.—Where an amalgamation takes place between any two or more insurers, or where any business of an insurer is transferred whether in

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accordance with a scheme confirmed by the Authority or otherwise, the insurer carrying on the amalgamated business or the person to whom the business is transferred, as the case may be, shall within three months from the date of the completion of the amalgamation or transfer, furnish 2(two) copies of the following documents to the Authority, namely :—

- (a) a certified copy of the scheme, agreement or deed under which the amalgamation or transfer has been effected;
- (b) a declaration signed by every party concerned or in the case of a company by the Chairman and the Chief Executive Officer that to the best of their belief every payment made or to be made to any person whatsoever on account of the amalgamation or transfer is therein fully set forth and that no other payments beyond those set forth have been made or are to be made either in money, policies, bonds, valuable securities or other property; and
- (c) where the amalgamation or transfer has not been made in accordance with a scheme approved by the Authority under section 53, in that case—
 - (i) balance-sheet in respect of the insurance business of each of the insurers concerned in such amalgamation or transfer, prepared in the form as specified in the regulations; and
 - (ii) certified copies of any other reports on which the scheme of amalgamation or transfer was founded.

55. Power of the Authority to prepare scheme for non-life amalgamation.—(1) If the Authority, in case of non-life insurance business, is satisfied that—

- (i) in the public interest; or
- (ii) in the interest of the policy-holders; or
- (iii) in order to secure proper management of an insurer; or
- (iv) in the interest of insurance business of the country as a whole,

it is necessary to amalgamate one insurer with another, it may prepare a scheme for the amalgamation :

Provided that, no such scheme shall be prepared unless the other insurer has given its written consent to the proposal for such amalgamation.

(2) The aforesaid scheme may contain provisions for all or any of the following matters, namely :—

- (a) the constitution, name and registered office, the capital, assets, power, rights, interests, authorities and privileges and the liabilities, duties and obligations of the transferee insurer;
- (b) the transfer to the transferee insurer the business, properties, assets and liabilities of the insurer on such terms and conditions as may be specified in the scheme;
- (c) any change in the Board of Directors, or the appointment of a new Board of directors of the transferee insurer and the Authority by whom, the manner in which, and the period for which such appointment of a new Board of Directors or of any director, shall be

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made;

(d) the alteration of the memorandum and articles of association of the transferee insurer for the purposes of altering the capital thereof or for such other purposes as may be necessary to give effect to the amalgamation;

(e) subject to the provisions of the scheme, the continuation of any pending action or proceedings by or against the transferee insurer;

(f) the reduction or alteration of the interest or rights which the share- holders, policyholders and other creditors have in or against the insurer before the amalgamation in the public interest or in the interest of the share-holders, policy-holders and other creditors or for the maintenance of the business of the insurer;

(g) the payment in cash or otherwise to policy-holders or other creditors in full satisfaction of their claims—

(i) in respect of their interest or rights in or against the insurer before the merger;

(ii) where their interest or rights in or against the insurer has or have been reduced in accordance with clause (f), such reduced interest or rights;

(h) the allotment to the share-holders of the insurer for shares held by them therein before the amalgamation whether their interest in such shares has been reduced under clause (f) or not of share in the transferee insurer and where any share-holder claims payment in cash and not allotment of shares, or where it is not possible to allot shares to any shareholder the payment in cash to those share- holders in satisfaction of their following claims, namely :—

(i) in respect of their interest in shares in the insurer before the amalgamation;

(ii) where their interest or rights has or have been reduced in accordance with clause (f), in respect of their interest or right so reduced;

(i) the continuance of the services of all the employees of the insurer in the transferee insurer at the same remuneration and on the same terms and conditions of service that prevailed immediately before the amalgamation :

Provided that the scheme shall contain a provision that the transferee insurer shall pay or grant not later than the expiry of a period of 3(three) years from the amalgamation, to the said employees the same remuneration and the same terms and

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conditions of service as are applicable to other employees of corresponding rank or status of the transferee insurer subject to the educational qualifications and experience of the said employees being equivalent to those of such other employees of the transferee insurer :

Provided further that if in any case any doubt or difference arises as to whether the educational qualifications and experience of any employees are equivalent to the educational qualifications and experience of the other employees of corresponding rank or status of the transferee insurer, the doubt or difference shall be referred to the Authority whose decision thereon shall be final;

(j) any other terms and conditions for the amalgamation of the insurer;

(k) such incidental, consequential and supplemental matters as are necessary to secure that the amalgamation shall be fully and effectively carried out.

(3) In accordance with this section—

(a) a copy of the scheme prepared by the Authority shall be sent in draft to the insurer and the transferee insurer and any other insurer concerned in the merger, for suggestions and objections, if any;

(b) the Authority may make such modifications in the draft scheme as it may consider necessary in the light of suggestions and objections received from the insurer, the transferee insurer, and any other insurer concerned in the amalgamation and from shareholders, policy-holders or creditors of each of the abovementioned insurers.

(4) The scheme prepared in accordance with this section shall be placed before the Government for its approval and the Government may approve the scheme without any modification or with such modification as it may consider necessary; and the scheme as approved by the Government shall come into force on such date as the Government may specify in this behalf :

Provided that different dates may be specified for the implementation of different provisions of the scheme.

(5) The approval given by the Government under sub-section (4) shall be conclusive evidence that all the requirements of this section relating to amalgamation have been complied with and a copy of the approved scheme certified in writing by an officer of the Government shall in all legal proceedings (whether in appeal or similar) be admitted as evidence to the same extent as the original scheme.

(6) The Government may, in like-manner, add to, amend or alter any scheme made under this section.

(7) On and from the date of the coming into force of the scheme or any provision thereof; the scheme or such provision shall be binding on the insurer or, as the case may be, on the transferee insurer and any other insurer concerned in the amalgamation and also on each shareholders, policyholders and other creditors and employees of those insurers and transferee insurer, and on any other person having any right or liability in relation to any of those insurers or the transferee insurer.

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(8) On and from such date as may be specified by the Government, the properties and assets of the insurer shall, by virtue of and to the extent provided in the scheme, be transferred to, and vested in the transferee insurer and the liability of the insurer shall, by virtue of and to the extent provided in the scheme, be transferred to and become the liabilities of the transferee insurer.

(9) If any difficulty arises in giving effect to the provisions of the scheme the Government may take any action or make order not inconsistent with such provisions, which appear to it necessary or expedient for the purpose of removing the difficulty.

(1) Nothing in this section shall prevent the amalgamation with an insurer by a single scheme of several insurers.

(11) The provision of this section and of any scheme made under it shall be in force notwithstanding anything to the contrary contained in any other provisions of this Act or in any other law or any agreement, award or other instrument for the time being in force.

(12) The provision of section 54 shall not apply in giving effect to amalgamation under the provisions of this section.

ASSIGNMENT OR TRANSFER OF POLICIES AND NOMINATIONS

56. Assignment and transfer of life insurance policies.—(1) A transfer and assignment of a policy of life insurance may be made only by an endorsement upon the policy itself or by a separate instrument, signed either by the transferor or by the assignor or his duly authorized or recognized agent and attested by at least one witness, specifically setting forth the fact of transfer or assignment.

(2) Such transfer or assignment shall be complete and effective upon the endorsement of the instrument referred to and due attestation but except where the transfer or assignment is in favour of the insurer, it shall not be operative as against an insurer and shall not confer upon the transferee or assignee or his legal representative any right to sue for the amount of such policy or the moneys secured thereby until a notice in writing of the transfer or assignment and either the said endorsement or instrument itself or a copy thereof certified to be correct by both transferor and transferee or their duly authorized agents have been delivered to the insurer :

Provided that where the insurer maintains one or more places of business in Bangladesh, such notice shall be delivered at the place mentioned in the policy or at his principal place of business.

(3) The date on which the notice referred to in sub-section (2) is delivered to the insurer shall regulate the priority of all claims under a transfer or assignment as between persons interested in the policy; and where there is more than one transfer or assignment the priority of the claims under such instrument shall be governed by the order in which the notices referred to in sub-section (2) are delivered.

(4) Upon the receipt of the notice referred to in sub-section (2) the insurer shall record the fact of such transfer or assignment together with the date thereof and the name of the transferee or the assignee and shall, on the request of the person by whom the notice was given or of the transferee or assignee, on payment of a fee prescribed by rules provide a written acknowledgment of the receipt of such notice, and any such acknowledgment shall be the conclusive evidence that the insurer has received the notice.

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(5) Subject to the terms and conditions of the transfer or assignment, the transferee or assignee named in the notice shall, from the date of the receipt of the notice referred to in sub-section (2) of this section, be the only person entitled to the benefit under the policy, and all the liability and ownership and right vested in the transferor or assignor shall vest in him on the date of transfer or assignment and he may institute any suit in relation to the policy without obtaining the permission of the transferor or assignor or making him a party to it.

(6) Any rights and remedies of an assignee or transferee of a policy of life insurance under an assignment or transfer effected prior to the coming into force of this Act shall not be affected by the provisions of this section.

(7) Notwithstanding any law to the contrary, an assignment in favour of a person made with the condition that it shall be inoperative or that the interest shall pass on to some other person on the happening of a specified event during the life time of the person whose life is insured and an assignment in favour of the survivor or survivors of a number of persons, shall be valid.

(8) No transferee or assignee of a life insurance policy issued by a Mutual Insurance Company shall become a member of that company by reason only of such transfer or assignment of life insurance policy.

57. Nomination by policy-holder.—(1) The holder of a policy of life insurance on his own life, may, when effecting the policy or at any time before the policy matures for payment, nominate the person or persons to whom the money secured by the policy shall be paid in the event of his death : Provided that, where any nominee is a minor, it shall be lawful for the policy-holder to appoint in the prescribed manner any person to receive the money secured by the policy in the event of his death during the minority of the nominee.

(2) Any such nomination in order to be effectual shall, unless it is incorporated in the text of the policy itself, be made by an endorsement on the policy and communicated to the insurer in relation to life insurance and registered by it in its records and any such nomination may at any time before the policy matures for payment be cancelled or changed by an endorsement or a further endorsement or a will, as the case may be; but unless notice of any such cancellation or change has been delivered to the insurer, the insurer shall not be liable for any payment under the policy made bonafide by it to a nominee or a nominee as registered in the records of the insurer.

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(3) The insurer shall furnish to the policy-holder a written acknowledgment of having registered a nomination or a cancellation or change thereof, and may charge a prescribed fee for that.

(4) A transfer or assignment of a policy made in accordance with this section shall automatically cancel a nomination:

Provided that the assignment of a policy to the insurer who bears the risk on the policy at the time of the assignment, in consideration of a loan granted by that insurer on the security of the policy within its surrender value, or its re-assignment on repayment of the loan shall not cancel a nomination; but shall affect the rights of the nominee only to the extent of the insurer's interest in the policy until the loan is paid :

Provided further that the assignment of a policy to a party other than the insurer who bears the risk on the policy at the time of the assignment, in consideration of a loan granted by that person on the security of the policy within its surrender value, shall not cancel a nomination; rather it shall remain suspended, to the extent of the interest of the lender in the policy, until such time as the policy is reassigned on repayment of the loan.

(5) Where the policy matures for payment during the lifetime of the person whose life is insured or where the nominee or, if there are more nominees than one, all the nominees die before the policy matures, the amount secured by the policy shall be payable to the policy-holder or his heirs or legal representatives or the holder of a succession certificate.

(6) Where the nominee or, if there are more nominees than one, nominees survive the person whose life is insured, the amount secured by the policy shall be payable to such survivor or survivors.

(7) The provisions of this section shall not apply to any policy of life insurance to which provisions of the Married Women's Property Act 1874 applies or has at any time applied :

Provided that where a nomination made before this Act has come into force in favour of the wife of the person who has insured his life or of his wife and children or any of them, the said sub-section (6) shall be deemed not to apply or not to have applied to the policy.

COMMISSION, REBATES AND EXPENSES OF MANAGEMENT

58. Restriction on payment by way of commission or otherwise for procuring

business.—(1) No person shall pay or contract to pay any remuneration or reward whether by way of commission or in any other name for soliciting or procuring insurance business in Bangladesh to any person except an insurance agent or an employer of agents or broker.

(2) No person shall pay to any agent any renewal commission in respect of a life insurance business after the expiry of the term of licence during the validity of which such business was procured; or the insurance agent referred to shall not receive commission for insurance business procured by him unless he has been registered under sub-section (1) of section 124.

(3) No insurance agent in case of life insurance shall be paid or contracted to be paid by way of commission or remuneration in any form for policy or policies procured by him an amount exceeding the following limit, namely :—

- (a) 35 (thirty five) percent of the first year's premium;
- (b) 1 (ten) percent on second year's renewal premium; and

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(c) 5 (five) percent of renewal premium on subsequent years :

Provided that insurers in respect of life insurance business may pay during the first 1(ten) years of their business to their insurance agents commission on any policy or policies procured by them of 45(forty five) percent of the first year's premium; 12 (twelve) percent on second year's renewal premium and 6(six) percent of the renewal premiums on subsequent years.

(4) For the purpose of sub-section (2), all the life insurance business of an agent during the validity of his licence procured shall be deemed to have been procured by that insurance agent.

(5) No insurance agent shall be paid or contracted to be paid by way of commission or as remuneration in any form any amount in respect of any policy not procured through him :
Provided that where a policy of life insurance has lapsed, and it cannot under the terms and conditions applicable to it be revived without further medical examination of the person whose life was insured thereby, an insurer, after giving

notice in writing to the insurance agent through whom the policy was effected if such agent continues to be an agent, an opportunity to effect the revival of the policy, within a time specified in the notice, being not less than 1(one) month from the date of the receipt by him of the notice, may pay to another insurance agent who effects the revival of the policy an amount calculated at a rate not exceeding the rate of commission at which the agent through whom the policy was effected would have been paid had the policy not lapsed, on the sum payable on revival of the policy on account of arrear premiums (excluding any interest on such arrear premiums) and also on the subsequent renewal premiums payable on the policy.

59. Limitation of expenditure on commission.—No person shall pay or contract to pay to an insurance agent and no insurance agent shall receive or contract to receive, by way of commission or remuneration in any form, in respect of any policy of life insurance issued in Bangladesh by an insurer effected through that insurance agent, an amount exceeding such percentage as may be prescribed :
Provided that such percentage shall not exceed the rate as referred to in clause (a) of sub-section (3) of section 58.

(2) No person shall pay to any insurance agent in Bangladesh or contract to pay to any employer of agents and no employer of agents shall receive or contract to receive by way of commission, or any other remuneration in any form, in respect of any policy of life insurance issued in Bangladesh by an insurer and effected through an employer of agents, an amount exceeding such percentage as may be prescribed.

(3) No person shall pay or contract to pay to an insurance agent, by way of commission or remuneration in any form, in respect of any policy of non-life insurance issued in Bangladesh by an insurer and effected through an insurance agent, an amount exceeding such percentage as may be prescribed.

(4) No person shall pay or contract to pay to any broker, by way of commission, overriding commission or any other remuneration in any form in respect of any policy of non-life insurance issued in Bangladesh by an insurer and effected through a broker, an amount exceeding such percentage as

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may be prescribed.

(5) No insurer shall pay or contract to pay outside Bangladesh to any person any commission in any form in respect of the insurance business transacted by such person in Bangladesh.

(6) Any insurer, agent, employer of agents or broker who contravenes any of the provisions of sub-section (1), (2), (3), (4) and (5) shall be punished with fine which may extend to Taka 1(one) lac.

(7) An insurer incorporated outside Bangladesh who receives or contracts to receive any commission in respect of any business transacted in Bangladesh and reinsured abroad shall not be deemed to have contravened the provisions of sub- section (5) if all amounts received by it outside Bangladesh have been fully credited following the methods approved by the Government.

6. Restriction of rebates.—(1) No person shall allow or offer to allow, either directly or indirectly, as an inducement to any person to take out or renew or continue an insurance in respect of any kind of risk relating to lives or properties in Bangladesh any rebate of the whole or part of commission payable or any of the premium shown on the policy, nor shall any person taking out or renewing or continuing a policy accept any rebate, except such rebate as may be allowed in accordance with the published prospectuses or tables of the insurer :

Provided that acceptance by an insurance agent of commission in connection with a policy of life insurance taken out by himself on his own life shall not be deemed to be acceptance of a rebate of premium within the meaning of this sub-section if at the time of such acceptance the insurance agent satisfies fulfilling the prescribed conditions establishing that he is a bona fide insurance agent employed by the insurer.

(2) Any person making default in complying with the provisions of this section shall be punished with such fine as may be prescribed by rules.

61. Restriction on cessation of payment of commission.—(1) Notwithstanding anything to the contrary contained in any contract executed between any person and any insurance agent providing for the forfeiture or stoppage of payment of renewal commission to such insurance agent, no such person shall, in respect of life insurance business transacted in Bangladesh, refuse payment to an insurance agent of commission due to him on renewal premium under the agreement by reason only of the termination of his agreement, except for fraud :

Provided that—

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(a) such agent ceases to act for the insurer concerned after the Authority is satisfied and has conveyed the fact to the insurer and the agent that the circumstances in which the said insurer is placed are such as to justify the agent's ceasing to act for it; or

(b) such agent has served the insurer continually and exclusively respect of life business for not less than 3(three) years and has earned a prescribed minimum renewal commission before ceasing to act as such agent for the insurer.

(2) Any commission payable to an insurance agent whether under the provisions of sub-section (1) or otherwise shall notwithstanding the death of the agent and notwithstanding the provisions in this Act regarding the holding of an insurance agent's licence continue to be payable to his heirs for so long as such commission would have been payable had such insurance agent been alive or in one or more lump sums commuted under sub-section (4) of this section :

Provided that no commission on renewal premiums shall be paid under this section if the total amount of commission on renewal premiums earned by the insurance agent during the 12(twelve) months preceding the date of his death was less than the prescribed amount.

(3) For the purposes of sub-section (2) an insurance agent may nominate any person or persons to whom the commission due to him shall be paid in the event of his death :

Provided that any such nomination is to be communicated to the insurer and registered by it in writing and any such nomination may at any time before the death of the insurance agent, be cancelled or changed by him, but unless a notice in writing of any such cancellation or change has been delivered to the insurer, the insurer shall not be liable for any payment of the commission made bona fide by him to a nominee registered with the insurer :

Provided further that the insurer shall furnish to the insurance agent a written acknowledgement of having registered nomination or cancellation or change thereof :

Provided further that where the nominee is a minor, it shall be lawful for the insurance agent to appoint any person to receive the commission in the event of his death during the minority of the nominee.

(4) The insurer shall pay the commission payable to any heir or nominee of a deceased insurance agent under sub-section (2) in one or more lump sums as mutually agreed upon and payment can be made in other cases in the same manner.

(5) An insurer may recover out of the commission payable under sub- section (2) of this section any sums owing to the insurer by the insurance agent at the time of his death.

Explanation.—In this section, reference to "insurance agent" shall be construed as including reference to agent, employer or agents and broker and reference to commission shall be construed as including reference to commission payable.

62. Limitation of expenses of management in life insurance business.—(1) No insurer shall, in respect of life insurance business transacted by it in Bangladesh spend as expenses of management including commission or remuneration for procuring business in any calendar year an amount in excess of the prescribed limits and in prescribing any such limits regard shall be had to the size and age of the insurer and the provisions generally made for expenses of management in the premium rates of insurers

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Provided that the Authority may, on an application made to it in this behalf, condone the contravention of this sub-section by an insurer who has, on reasonable grounds, spent, as such expenses an amount in excess of such limit.

(2) Every insurer transacting life insurance business in Bangladesh shall incorporate in the revenue account a certificate signed by the Chairman and two Directors and by the Chief Executive Officer of the insurer, and an Auditor’s certificate, certifying that all expenses of management in respect of life insurance business in Bangladesh have been fully debited in the revenue account as expenses.

Explanation.—In this section “expenses of management” means all expenses incurred whether directly or indirectly, and includes :—

- (i) payment of all kinds commission;
- (ii) a proper share of expenses capitalized;

(iii) in the case of an insurer having his principal place of business outside Bangladesh a proper share of head office expenses which shall not exceed such percentage of the total net premium, that is to say, gross premiums written direct in Bangladesh minus reinsurances ceded during the year income as may be prescribed in respect of life insurance business transacted by him in Bangladesh but does not include any share of head office expenses in respect of life insurance business transacted by him outside Bangladesh.

63. Limitation of expenses of management in non-life insurance business.—(1) No insurer shall, in respect of any class of non-life insurance business transacted by him in Bangladesh spend in any calendar year as expenses of management, including commission or remuneration for procuring business, an amount in excess of the prescribed limits and in prescribing any such limits regard shall be had to the size and age of the insurer:

Provided that the Authority may, on an application made to it in this behalf, condone the contravention of this sub-section by an insurer who has, on reasonable grounds, spent as such expenses an amount in excess of such limits.

(2) Every insurer referred to in sub-section (1) shall incorporate in the revenue account a certificate signed by the chairman, two directors and by the Chief Executive Officer of the insurer, and an Auditor’s certificate, certifying that all expenses of management, whether directly or indirectly, in respect of the business referred to in this section have been fully debited in the revenue account as expenses.

Explanation.—In this section—

- (a) “expenses of management” means all expenses, whether directly or indirectly including payments of all kinds of commission and, in this case of an insurer having his principal place of business outside Bangladesh a proper share of head office expenses which shall not exceed such percentage of the total net premium income, that is to say, gross premiums written direct in Bangladesh plus re-insurances accepted minus re-insurances ceded during the year, as may be prescribed;

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(b) “insurance business transacted in Bangladesh” includes insurance business, wherever effected, relating to any property situated in Bangladesh or to any vessel or aircraft registered in Bangladesh.

64. **Remuneration.**—For the purposes of sections 58, 59, 62 and 63, “remuneration” shall include traveling allowance and entertainment allowance and any kind other payments or expenses.

65. **Power to restrict payment of excessive remuneration.**—(1) The Authority may, if satisfied that any insurer in respect of all insurance business transacted by it in Bangladesh is paying any person commission or remuneration in any other way, on a scale disproportionate according to the normal standards prevailing in insurance business to the resources of the insurer, call upon the insurer to comply within 6(six) months with such directions as the Authority thinks fit and if in compliance with the direction requires the modification of any of the terms of the contract entered into by the insurer with such person no compensation shall be payable to such person by the insurer by reason only of such modification or of the resignation of such person if the modified terms are not acceptable to him and no payment by way of renewal commission or otherwise shall be made to such person by the insurer in respect of any payments made after the date of such resignation except at such rates as may be approved by the Authority in this behalf.

(2) Every insurer shall before the first day of March every year submit to the Authority a statement in the prescribed form showing the remuneration paid by way of commission or otherwise to any person in cases where such remuneration exceeds minimum taxable limit in the previous calendar year.

(3) Where an insurer pays any person remuneration exceeding the minimum taxable limit under income tax law in pursuance of any agreement between it and such person, the Authority may, by notice in writing, direct the insurer to submit a certified copy of such agreement and the insurer shall comply with that direction.

66. **Provisions relating to managers, etc.**—(1) Notwithstanding anything contained in the Company Act or, in the case of a company, in its articles of association or in any contract or agreement, no insurer shall, after the expiry of 1(one) year from the coming into force of this Act be directed by, or employ as manager or officer or in any capacity, any person whose remuneration or any part thereof takes the form of commission on the total insurance business or

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commission or otherwise on the total business of any class or sub-class of non- life insurance business or any part of that business:

Provided that nothing in this sub-section shall be deemed to prohibit—

- (a) the payment of commission to an insurance agent or employer of insurance agent or broker in respect of any insurance business procured by or through him;
- (b) the employment of an insurance agent in a clerical or other subordinate capacity who receives commission in respect of insurance business procured by him;
- (c) the employment of an insurance agent an employer of agents as an officer who receives commission in respect of life insurance business procured by him;
- (d) the payment of a share in the profit of non-life insurance business;
- (e) the payment of bouns in any year on a uniform basis to all class of employees by way of additional benefit, not exceeding the amount received by any employee as salary at that period which, in the opinion of the Authority, is reasonable.

(2) No person shall have any right, whether in contract or otherwise, to any compensation for any loss incurred by reason of the operation of any provision of this section.

67. Appointment of actuary.—(1) Every insure registered to conduct life insurance business shall, where required, appoint an actuary with the approval of the Authority.

(2) The qualifications, duties and other benefits and terms and conditions of the actuary shall be prescribed by regulations.

(3) The Authority may, on appropriate ground, disapprove such appiontment or revoke the earlier approval.

(4) When a person ceases to be the appointed actuary of an insurer other than the reasons under sub-section (3) the insurer shall notify the Authority in writing of the cessation and the reasons for it within 15 (fifteen) days from the date of cessation and shall obtain the approval from the Authority to appoint another person as its actuary not later than 9 (ninety) days from the date of cessation or such further period as the Authority may approve.

(5) The actuary appointed by an insurer shall have the freedom to report to the Board of Directors of the insurer on any matter which in has opinion requires to be brought to the attention to the Board of Directors.

(6) An actuary shall not be terminated without the permission of the Authority and the Authority shall not give permission for similar termination without hearing both the parties.

(7) An actuary who resigns from his office shall inform Authority of the reasons of his resignation and any matters connected therewith which he believes should be brought to the attention of the Authority.

(8) Any Dirtector, Chief Executive Officer, officer or employee of the insurer shall furnish information to the actuary within his knowledge which the actuary has required and ensure that material particulars furnished to the actuary is not false or misleading and is not incomplete.

68. Policy not to be called in question on ground of misstatement after two years.—No policy of life insurance effected before the commencement of this Act shall after the expiry of 2(two)

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years from the date of commencement of this Act and no policy of life insurance effected after the coming into force of this Act shall, after the expiry of 2(two) years from the date on which it was effected, be called in question by an insurer on the ground that a statement made in the proposal for insurance or in any report of a medical officer, or referee or friend of the insured, or in any other document leading to the issue of the policy, was inaccurate or false, unless the insurer shows that such statement was on a material particular or suppressed facts which it was material to disclose and that it was fraudulently made by the policy-holder and that the policy-holder knew at the time of making it that the statement was false or that it suppressed facts which it was material to disclose:

Provided that nothing in this section shall prevent the insurer from calling for proof of age at any time if it is entitled to do so, and no policy shall be deemed to be called in question merely because the terms of the policy are adjusted on subsequent proof that the age of the life insured was incorrectly stated in the proposal.

69. Application of laws of Bangladesh to policy issued in Bangladesh.— The holder of a policy of insurance issued by an insurer in respect of insurance business transacted in Bangladesh after the commencement of this Act shall have

the right, notwithstanding anything to the contrary, contained in the agreement in relation to the insurance policy, to receive payment in Bangladesh of any sum secured thereby and to sue for any relief in respect of the policy in any Court of competent jurisdiction in Bangladesh; and if the suit is brought in Bangladesh any question of law arising in connection with any such policy shall be determined according to the law in force in Bangladesh :

Provided that nothing in this section shall apply to a policy of marine insurance.

7. Payment of money into Court.—(1) Where in respect of any policy of life insurance maturing for payment an insurer is of opinion that by reason of conflicting claims to or of insufficiency of proof of title to the amount secured thereby or for any other adequate reason it is impossible otherwise for the insurer to obtain a satisfactory discharge for the payment of such amount, the insurer may before the expiry of 9(nine) months from the date of the maturing of the policy or, where the circumstances are such that the insurer can't be immediately aware of such maturing, from the date on which the notice of such maturing is given to the insurer, apply to pay the amount into the Court of competent jurisdiction.

(2) A receipt granted by the Court for any such payment shall be a satisfactory discharge to the insurer for the payment of such amount.

(3) An application for permission to make a payment into Court under this section shall be made by a petition verified by an affidavit signed by Chief Executive Officer of the insurer setting forth the following particulars, namely:—

- (a) the name of the insured person and his address;
- (b) if the insured person is deceased, the date and place of his death;
- (c) the nature of the policy and the amount secured by it;
- (d) the name and address of each claimant so far as is known to the insurer with details of every notice of claim received;

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- (e) the reasons why in the opinion of the insurer a satisfactory discharge cannot be obtained for the payment of the amount; and
- (f) the address at which the insurer may be served with notice of any proceedings relating to the amount paid into Court.

(4) An application under this section shall not be entertained by the Court if the application is made before the expiry of 6(six) months from the maturing of the policy by survival, or from the date of receipt of notice by the insurer of the death of the insurer.

(5) If it appears to the Court that the discharge for the payment of the amount cannot otherwise be obtained by the insurer it shall allow the amount to be paid and be invested the amount in Government securities pending its disposal.

(6) The insurer shall transmit to the Court every notice of claim received after the making of the application under sub-section (3), and any payment required by the Court in pursuance of the application as a costs of the proceedings or otherwise in connection with the disposal of the amount paid into Court shall be borne by the insurer and as to any other costs as approved by the Court be in the direction of the Court.

(7) The Court shall cause notice to be given to every ascertained claimant of the fact that amount has been paid into the Court, and shall cause notice at the cost of any claimant applying to withdraw the amount to be given to every other ascertained claimant.

(8) The Court shall decide all questions relating to the disposal of claims to the amount paid into the Court.

71. Dispute over claims under life and non-life policies of small amount.—(1) Any dispute as to the sum of claim arising under a policy of life insurance assuring a sum (exclusive of any profit or bonus not being a guaranteed profit or bonus) and under a policy of non-life insurance in respect of insurance business transacted in Bangladesh, up to a small amount as fixed by rules, may at the option of the claimant, be referred to the Authority for settlement and the Authority may after hearing the parties and taking such evidence as it may in its absolute discretion, consider necessary, settle the dispute.

(2) The decision of the Authority under this section shall be final and shall not be called in question in any Court of law and shall be deemed to be a decree of a Court having competence to decide the dispute and would be effected accordingly.

(3) The Authority shall in respect of the duties performed by it for the purpose of this section charge and collect such fee whether by way of percentage or otherwise as may be prescribed.

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72. Interest on late settlement of claims.—(1) Where payment on a policy issued by an insurer becomes due and the person entitled thereto has filed complete papers for claiming the payment, the insurer shall if it fails to make the payment, within a period of 9(ninety) days from the date on which the payment becomes due or the claimant complies with all formalities, whichever is later, pay interest as specified in sub-section (2) of this section on the amount so payable unless he proves that such failure was due to circumstances beyond his control.

(2) The interest under sub-section (1) shall be payable for the period during which the failure continues and shall be calculated on a monthly basis at the rate of 5(five) percent higher than the prevailing bank rate.

73. Disputes Resolution Committees.—(1) The Authority shall constitute one or more disputes resolution committees to resolve disputes arising between an insurer and a policy-holder in respect of claim other than disputes under section 71.

(2) The constitution of the committees under this section and the procedure shall be prescribed by regulations, and the Arbitration Act, 21 or any rules made thereunder shall not apply to such committees.

(3) No person shall be appointed a member of the committee if he has any interest in the subject matter of the dispute.

(4) The committee shall have jurisdiction in respect of the life insurance policies not being group life policies and non-life insurance policies in respect of claims.

(5) Any party aggrieved by a decision of the Committee may prefer an appeal to the Court within a period of 3(thirty) days from the date of notification of such decision.

DIRECTORSHIP AND MANAGEMENT OF INSURANCE COMPANIES

74. Restriction on the insurance agents, employer of agents, surveyor and insurance brokers becoming directors of insurance companies.—(1) No insurance agent and employer of agents of a life insurer shall be eligible to be or remain a director of any life insurer.

(2) No insurance agent, surveyor and insurance broker of a non-life insurer shall be eligible to be or remain a director of any non-life insurer.

(3) Any insurance agent or employer of agents or surveyor or insurance broker who contravenes the provisions of sub-section (1) and (2) shall cease to be a director and shall also be liable to the cancellation of his licence as insurance agent or insurance broker or of his certificate as employer of agents or surveyor as the case may be.

75. Restriction on becoming directors simultaneously of more than one insurer or insurer and bank-company or financial institution.—Notwithstanding anything contained in any other law for the time being in force, a director of any insurer shall not be a director of another insurer registered for the same class of insurance business or any bank company or financial institution.

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Explanation.—For the purposes of this section “bank company” shall mean bank companies as defined in the Bank Company Act, 1991 and “financial institution” shall mean the financial institutions as defined in the Financial Institution Act, 1993.

76. Board of Directors of insurer.—(1) Where the insurer is a company incorporated under the Company Act, the maximum number of Directors of that company shall, Notwithstanding anything contained in the memorandum of association or articles of association of the company, not exceed 20 (twenty) and in that case 12 (twelve) shall be sponsor Directors, 6 (six) shall be Directors holding public share and 2 (two) shall be independent Directors,

(2) The share-holders shall elect Directors in such manner as may be prescribed by rules.

77. Restriction on nomination of nominated Directors— Notwithstanding anything contained in any other law for the time being in force or in the articles of association of any insurer, no person other than a member of the Board of Directors of an insurer shall act as a Director:

Provided that where a Director is absent from Bangladesh for a period exceeding 3 (three) months, a person qualified to be a Director may be nominated by him to act as Director in his place with the prior intimation to the Authority:

Provided further that no such nominated Director shall act as Director for more than 6 (six) months without the approval of the Authority.

78. Restriction on the employment of Directors—Notwithstanding anything contained in any other law for the time being in force or in the articles of Association of an insurer, no person shall be or remain director of the insurer if he is engaged in the said insurer as adviser, auditor, consultant or in any other profitable post.

79. Election of Chairman and Vice-Chairman of the Board of Directors.—Notwithstanding anything contained in the articles of association of an insurer, the Chairman and the Vice-Chairman of the Board or Directors of an insurer shall be elected from amongst the Directors:

Provided that there shall not be more than one Vice-Chairman of an insurer.

8. Appointment and removal of the Chief Executive Officer.—(1) No person shall be appointed as the Chief Executive Officer of an insurance company without the prior approval of the Authority and the Authority shall not approve such appointment unless it is satisfied that the person proposed to be appointed has such qualification and experience in the field of insurance as may be prescribed by regulations.

(2) No Chief Executive Officer approved under sub-section (1) shall be removed, terminated or dismissed by the insurer without the prior permission of the Authority and it shall not give decision in such cases without hearing the concerned Chief Executive Officer and the insurer or any person authorized by the insurer in this behalf.

(3) An insurer shall give notice in writing to the Authority of the fact that any person has become or ceased to be its Chief Executive Officer before the expiration of a period of 15 (fifteen) days from the day on which that fact comes to the insurer’s knowledge.

(4) The post of the Chief Executive Officer of an insurance company shall not be kept vacant for a consecutive period of more than three months:

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Provided that the Authority may extend the time for further three months in consideration of unavoidable circumstances.

(5) Where the post of the Chief Executive Officer of any insurance company is not filled in within the time specified in sub-section (4), the Authority may appoint an Administrator for the discharge of the responsibilities of Chief Executive Officer of the company and the company concerned shall bear the expenses on account of pay and other facilities of the Administrator as may be determined by it.

81. Appointment of the Advisers.—Notwithstanding anything contained in any other law for the time being in force or in the articles of association of an insurer, no insurer shall appoint more than 2 (two) Advisers and such appointment shall not be made without the approval of the Authority: Provided that an Adviser so appointed shall have specific duties and responsibilities and shall possess such qualification and experience as may be prescribed by regulations.

LIFE INSURANCE: DIVIDEND, BONUS, PROFIT DISTRIBUTION ETC.

82. Restriction on payment of dividends and bonuses.—(1) No insurer shall pay any dividend on its shares until expenses on account of management expenses, share selling commission, all expenses related to brokerage, amounts of losses incurred, and any other item of expenditure, which cannot be met by adequate assets of the insurer, have been completely written off.

(2) No insurer carrying on the life insurance business shall, for the purpose of declaring or paying any dividend to share-holders, any bonus to its policy- holders, paying in relation to any kind of debentures, loans or advances, utilize directly or indirectly any portion of the insurance fund or the funds of any other class of insurance business, except a surplus shown in the valuation balance sheet submitted to the Authority as part of the abstract referred to in this Act as a result of an actuarial valuation of the assets and liabilities of the insurer; and such surplus shall not be increased by transfer of contribution by any other means, except when the reserve fund is made up of surpluses disclosed to the Authority by submission of returns unless such contributions have been brought in as revenue through the revenue account applicable to life business on or before the date of the valuation aforesaid: Provided that payments made out of any such surplus in service of any debentures shall not exceed 5(fifty) percent of such surplus including any payment by way of interest on the debentures, and interest paid on the debentures shall not exceed 1(ten) percent of any such surplus except when the interest paid on the debentures is offset against and credited to the fund or funds concerned in deciding the interest basis adopted in the valuation disclosing the aforesaid surplus:

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Provided further that the share of any such surplus allocated to or reserved for the shareholders, including any amount for the payment of dividends guaranteed to them, whether by way of first charge or otherwise, shall not exceed such sums as may be prescribed by regulations and which shall in no case exceed—

- (a) 1(ten) percent such surplus in case of participating policies; and
- (b) in other cases, such percentage of the whole surpluses as may be prescribed by regulations.

83. Distribution of profits on life insurance business among policyholders.

—Notwithstanding anything contained to the contrary in its Memorandum or Articles of Association or any other documents, no insurer transacting life insurance business shall allocate for the benefit of the policy- holders a sum less than such percentage of the surplus as may be prescribed by regulations.

84. Distribution of Interim Bonuses.—Notwithstanding anything contained in this Act an insurer carrying on the business of life insurance shall be at liberty to declare an interim bonus or bonuses to policy-holders whose policies mature for payment by reason of death or otherwise during the inter valuation period, on the basis of the recommendation made by the investigating actuary at the last preceding valuation.

85. Notice of options available to the assured on the lapsing of a policy.—An insurer shall before the expiry of three months from the date on which the premiums in respect of a policy of life insurance were payable but not paid, give notice to the policy-holder informing him of the options available to him unless these are set forth in the policy.

86. Nomination under group life insurance policies.—(1) A person whose life is insured under a contract of group life insurance may at any time nominate one or more persons to whom the money secured by the policy shall be paid in the event of his death:

Provided that where any nominee is a minor, in the event of death of the person whose life is insured during the minority of the nominee, any other person may be appointed in the manner as specified by the regulations to receive the money secured by the policy.

(2) A nomination made under sub-section (1) shall be made in such manner as may be prescribed by regulations.

ST RELIANCE ASSOCIATES

SEVERAL RESTORATION, LIMITATION, FORFEITURE OF SEVERAL LIFE INSURANCE POLICY

87. Special definitions and interpretation for relevant policy.—(1) For the purposes of this part, a “relevant policy” means a policy of life insurance under which the whole of the benefits become payable either on, or at a fixed interval or intervals after, the occurrence of a contingency which is bound to occur.

(2) An amount due under this relevant policy shall mean a premium due under that policy but

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unpaid.

88. Acquisition of surrender value.—(1) A relevant policy which has been in force for not less than 2 (two) years shall have a surrender value which shall be calculated in accordance with such method as may be prescribed by regulations by the actuary appointed by the insurer.

(2) In the case of a policy issued before commencement of this Act and still in force after the commencement of this Act, the surrender value shall not at any time be less than the surrender value of the policy immediately before the commencement of this Act.

(3) Where under the terms of a policy the basis of calculation of the surrender value is subject to change by the insurer, the basis such calculation shall be furnished to the Authority and no variation shall be made there from unless the insurer, not less than 6(sixty) days before the date of such variation, furnishes to the Authority a statement of the proposed variation and the reasons thereof, accompanied by a statement by the actuary of his opinion as to the proposed variation.

(4) When an insurer furnishes to the Authority the matters referred to in sub-section (3) relating to a proposed variation, the Authority may within 6(sixty) days direct the insurer to make such changes in the proposed variation as it believes to be reasonable for the protection of the interest of policy-holders and the insurer shall comply with any such direction.

89. Surrender of policy at policy-holder’s option.—(1) The holder of a relevant policy which has been in force for not less than 2(two) years may make, in writing, a request to the insurer to surrender the policy.

(2) Subject to sub-section (3) and sub-section (4), within 1 (one) month of receiving a request under sub-section (1), such request not having been withdrawn by the policy-holder in the meantime, the insurer shall pay to the policy-holder an amount equal to the surrender value of the policy minus the amount owed to the insurer under, or secured by, the policy.

(3) If an insurer, within 15(fifteen) days of receiving a request under sub-section (1), communicates in writing with the policy-holder to consider the advantages of maintaining the policy and to seek professional advice if required, the period of 1 (one) month referred to in sub-section (2) shall be extended by 15(fifteen) days so far as it concerns that policy.

(4) The Authority may, on application by an insurer, issue a written order suspending or varying the insurer’s obligation to make payments under sub-section (2), where the Authority is satisfied that such suspension or variation is necessary in order to avoid prejudice to—

- (a) the financial stability of the insurer; or
- (b) the interests of the policy-holders of the insurer.

(5) An order issued under sub-section (3) shall—

- (a) be valid for such period as the Authority may determine; and
- (b) be subject to such conditions as the Authority may determine.

9. Surrender of policy at insurer’s option.—(1) A policy which has acquired a surrender value shall not be surrendered other than at the request of the policy-holders and without complying the provision as set out in this section.

(2) Where the total amount of dues owed to the insurer under, or secured by, a relevant policy

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exceeds the surrender value of the policy the insurer may issue to the policy-holder a written notice setting out the following matters, namely:—

- (a) the amount owed to the insurer under, or secured by the policy at the date of the notice;
- (b) the surrender value of the policy at the date of the notice;
- (c) notifying the policyholder that the policy will be surrendered at the end of 3 (thirty) days after the notice was issued to the policy-holder and the surrender value would be applied to satisfy of the debt, if the excess of the debt over the surrender value is not paid to the insurer before the expiry of that period.

(3) Where at least 3 (thirty) days have elapsed after the issue of a notice set out in sub-section (2) and the excess of the debt over the surrender value has not been paid to the insurer, the insurer may by written notice to the policy- holder effect surrender of the policy and apply the surrender value against the debt, which shall to the extent of the surrender value be extinguished.

91. Payment of policy at policy-holder’s option.—(1) An insurer shall, within 3 (thirty) days from receipt of an application in writing by the holder of the concerned policy which has been in force for not less than 2 (two) consecutive years, pay out the payment due under the policy.

(2) If an insurer, within 15 (fifteen) days of receiving an application under sub-section (1), communicates in writing with the policy-holder requesting to consider the advantages of maintaining the policy and give professional advice if necessary, the period of 3 (thirty) days referred to in subsection (1) shall be extended by fifteen days so far as concerns that policy only.

(3) A policy which is paid-up shall have a paid-up value, which shall, subject to sub-section (5),—

(a) include all bonuses that have already been earned by the policy; and

(b) where the policy is one on which the maximum number of premiums payable is fixed and the premiums are of uniform amount and paid at uniform intervals, be, before the inclusion of such bonuses, not less than such amount as is prescribed earlier.

(4) A policy paid-up under this section shall not be entitled by virtue only of this section to participate in any surplus declared distributable after the conversion of the policy into a paid-up policy.

(5) If, when an application is made to an insurer under sub-section (1) to settle the paid-up value of the policy, the policy-holder owes a debt to the insurer under or secured by the policy, the insurer may either—

(a) treat the debt as secured by the paid-up policy; or

(b) in calculating the value of paid-up policy, take the debt into account in such a manner as considered equitable by the appointed actuary.

(6) If in calculating the paid-up sum insured, a debt is taken into account in accordance with clause (b) of sub-section (5), the debt will be considered discharged.

92. Forfeiture.—(1) Any policy is not liable to be forfeited only because of the non-payment of overdue premium, if—

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- (a) the policy has been in force for at least 2 (two) years; and
(b) the surrender value of the policy exceeds the total of the amount of the overdue premium and all debts owed to the insurer under, or secured by, the policy.
- (2) For the purpose of clause (b) of sub-section (1), the surrender value of the policy shall be calculated at the date on which the overdue premium falls due as if the premium has been paid.
- (3) When the holder of a policy to which this section applies fails to pay a premium due under that policy, the insurer shall, before the expiry of 3 (three) months from the date on which that premium was payable but not paid, give notice to the policy-holder informing him of this responsibility.
- (4) Notwithstanding anything to the contrary in the policy, the policy-holder under this section may comply with the following at his option, namely:—
- (a) to have the policy paid up in accordance with the provisions of this Act;
(b) to adjust all the surrender value of the policy with due premium;
(c) to have the policy paid up after advancing one year’s premium subject to the availability of surrender value;
(d) to surrender the policy in accordance with the provisions of this Act;
(e) upon surrender, to issue to the policy-holder a term life insurance contract for a term as desired specified by the policy-holder and to determine the insured sum on the basis of the surrender value of the policy surrendered less the amount of any due owed to the company under, or secured by, the policy.
- (5) Notwithstanding anything to the contrary in the policy, the action taken by the insurer with respect to the policy under this section shall be—
- (a) if a course of action not stated in the notice issued under sub- section (3) is agreed in writing between the insurer and the policy holder, after the policy-holder has received the notice, that course of action;
- (b) if the policy-holder agrees to an option contained in the notice issued under sub-section (3), that course of action;
- (c) if the policy-holder does not respond to the notice issued under sub- section (3), and after making reasonable efforts the insurer is unable to contact the policy-holder—
- (i) if the policy-holder has agreed in writing, after the time of taking the policy and before the cessation of the payment of premium, in favor of taking a course of action; that course of action, otherwise;
- (ii) if a course of action, not being the course of action set out in clause (b) of subsection (4), is stated in the policy, that course of action.
- (6) No commission shall be payable to any person in respect of the following cases, namely :—
- (a) adjustment of the surrender value with the payment of premium in accordance with subsection (4); and
(b) the issue of a contract of term life insurance under clause (c) and (e) of sub-section (4).
- 93. Supply of copies of proposals and medical reports.**— Every insurer shall, on application by a policy-holder and on payment of a prescribed fee, supply to the policy-holder certified copies of the questions put to him and his answers thereto contained in his proposal for insurance and in any medical report supplied in connection therewith.
- 94. Restriction on business on dividing principle.**— No insurer shall after commencement of this Act begin, or after the expiry of 3(three) years from the date of commencement of this Act continue to carry on, any business upon the dividing principle, wherein the benefits of a policy are not fixed but depend either wholly or in part on the results of a distribution of benefits amongst policies becoming claims within a specified time, or the amount of premiums payable by a policy-holder depends wholly or in part on the number of policies becoming claims within specified time :

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Provided that nothing in this section shall prevent an insurer from allocating bonuses to holders of participating policies of life insurance in accordance with the provision of this Act, either as reversionary additions to the sums insured or as immediate cash bonuses or otherwise :

MANAGEMENT BY ADMINISTRATOR

95. Appointment of Administrator for management of insurance business.—(1) If at any time the Authority has reason to believe that an insurer carrying on insurance business is acting in a manner likely to be prejudicial to the interest of holders of insurance policies or failing to fulfill the solvency margin requirements, in this case, it may after giving opportunity to the insurer to be heard, suspend the Board of Directors and appoint an Administrator to manage the affairs of the insurer under the direction and control of the Authority.

(2) The Administrator appointed under sub-section (1) shall receive such remuneration and other benefits, if any, as determined by the Authority and the Authority may at any time cancel the appointment and appoint someone else in that post.

(3) The management of the business of the insurer shall as on and after the date of appointment of Administrator vest in such Administrator but except with the leave of the Authority the Administrator shall not issue any new policies.

(4) As on and after the date of appointment of the Administrator any person vested with any such management immediately prior to that date shall be divested of that management.

(5) The Authority shall issue necessary directions to the Administrator as to his powers and duties and the Administrator may apply to the Authority at any time for instructions as to the manner of conducting insurance business of the insurer or in relation to any matter arising in the course of such management.

96. Powers and duties of the Administrator.—(1) The Administrator shall conduct the management of the business of the insurer with utmost economy compatible with efficiency and shall, as soon as may be possible, file with the Authority a report stating which of the following courses is in the existing circumstances most advantageous to the general interest of the holders of insurance policies, namely:—

- (a) the transfer of the business of the insurer to some other insurer; or
- (b) the carrying on of its business by the insurer (in case of life insurance business whether with the policies of the business continued for the original sum insured with the addition of bonuses that attach to the policies or for reduced amounts.); or
- (c) the winding up of business of the insurer; or
- (d) such other course, as he deems advisable.

(2) On receipt of the report under sub-section (1) the Authority may take such action, as it thinks fit for protecting the interest of the holders of insurance policies in general.

(3) Any order passed by the Authority under sub-section (2) shall be binding and have effect notwithstanding anything contained in the memorandum or articles of association of the insurer, if it is a company.

97. Powers of Administrator respecting property liable to attachment.—

(1) If the Administrator is satisfied that any person has rendered himself liable to be proceeded against under this Act he may, pending the institution of proceedings against such person under this Act, by order in writing, prohibit him or any other person from transferring or otherwise disposing of any property which, in the opinion of the Administrator, would be liable to attachment in proceedings under that section.

(2) Any person aggrieved by an order made by the Administrator under sub-section (1) may,

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within 14 (fourteen) days from the date on which the order is received by him, appeal against such order to the Government and the Government shall take necessary action in relation to that appeal.

(3) An order made by the Administrator under sub-section (1) shall, subject to any order made by the Government on appeal, be in force for a period of 3 (three) months from the date of the order unless, before the expiry of the said period, an application is made to the Court competent to exercise jurisdiction, and when such an application is made, the order, shall, subject to any order made by that Court, continue in force as if it were an order of attachment made by that Court in proceedings.

(4) An order made by the Administrator under this section shall—

(a) in the case of an order affecting a corporation or firm, be served in the manner provided for the service of summons in rule 2 of Order XXIX or rule 3 of Order XXX in the First Schedule to the Code of Civil procedure, 198 (Act No. V of 198); and

(b) in the case of an order affecting a person not being a corporation or firm, be served on such person—

(i) personally, by delivering or tendering to him or by registered post in the address of his last place of residence and his permanent address; or

(ii) where the person cannot be found, by leaving a copy of the order with some adult male member of his family; or

(iii) by affixing at some conspicuous part of the premises in which he is known to have last resided or carried on business or personally worked for gains, and every such order shall be published in the official Gazette.

(5) If any question arises whether a person was duly served with an order under sub-section (4) the publication of the order in the official Gazette shall be conclusive proof that the order was served, and a failure to comply with the provisions of sub-section (4) shall not affect the validity of the order.

(6) Notwithstanding anything contained in this section, any property in respect of which an order has been made by the Administrator may, with the previous permission of the Administrator and subject to such terms and conditions as he may impose, be transferred or otherwise disposed of.

(7) Notwithstanding anything contained in any other law for the time being in force, the transfer or other disposition of any property in contravention of any order made by the Administrator under this section or of any terms and conditions imposed by him shall be unlawful.

(8) For the purpose of enabling him to form an opinion as to whether any property would be liable to attachment in proceedings under this Act or enabling him to institute proceedings under this Act, the Administrator may require any person to furnish information on such points or matters as, in the opinion of the Administrator may be relevant for the purpose, and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 of the Penal Code (Act XLV of 186).

(9) The Administrator shall have all the powers of a civil court under the Code of Civil Procedure, 198 (Act V of 198) while trying a suit in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of witnesses and examining them on oath;

(b) requiring the production of documents; and

(c) receiving evidence on affidavits;

(1) Any proceeding and procedure before the Administrator under this section shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Penal Code, 186 (Act No XLV of 196).

98. Cancellation of contracts and agreement.—The Administrator may, at any time during the continuance of his appointment, after giving an opportunity to the persons concerned of being heard,

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cancel or vary (either unconditionally or subject to such conditions as he thinks fit to impose) any contract or agreement (other than a policy) between the insurer and any other person which the Administrator is satisfied is prejudicial to the interests of holders of insurance policies.

99. Termination of appointment of Administrator.—If at any time, on a report made by the Authority in this behalf it appears to the Authority that the purpose of the order appointing the Administrator has been fulfilled or that for any reason it is undesirable that the order of appointment should remain in force, the Authority may cancel the order and thereupon the tenure of the Administrator shall be terminated and the insurance business which shall, unless otherwise directed by the Authority, again vest in the person on whom it was vested immediately prior to the date of appointment of the Administrator.

1. Finality of decision of appointing and canceling appointment order of

Administrator.—Any order or decision of the Authority made in pursuance of section 95 or section 99 shall be final and shall not be called in question in any court.

11. Penalty for withholding document or property from Administrator.— If any director or officer of the insurer or any other person fails to deliver to the Administrator any books of account, registers or any other documents in his custody relating to the business of the insurer as demanded by the Administrator, or retains any property of such insurer, he shall be punished with imprisonment which may extend to 6 (six) months, or with fine which may extend to Taka 5 (five) lac, or with both.

12. Protection of action taken under sections 95 to 99.—(1) No suit, prosecution or other legal proceedings shall lie against an Administrator for anything which is done or intended to be done in good faith in pursuance of sections 95, 96, 97 and 98.

(2) No suit or other legal proceedings shall lie against the Government or the Authority for any damage caused or likely to be caused by anything which is done in good faith or intended to be done in good faith in pursuance of sections 95, 96, 98, 99 or 1.

13. Winding up by the Court.—(1) The Court may order the winding up of any insurance company in accordance with the Company Act and the provisions of that Company Act shall, subject to the provisions of this Act, apply in case of such winding up order.

(2) In addition to the grounds on which an order of winding up may be based, the Court may order the winding up of an insurance company on the following grounds, namely:—

(a) if with the sanction of the Court previously obtained a petition in this behalf is presented by not less than one-tenth of the share-holders and holding not less than one tenth of the whole share capital or by not less than five hundred policy-holders holding policies of life insurance that have been in force for not less than 3 (three) years and are of the total value of not less than a prescribed amount;

(b) if the Authority who is hereby authorized to do so, applies in this behalf to the Court on any of the following grounds, namely:—

(i) that the company has failed to deposit or to keep deposited with the Bangladesh Bank the amounts required by section 23 or section 119 of this Act;

(ii) that the company having failed to comply with any requirements of this Act has continued such failure or having contravened any provision of this Act has continued such contravention for a period of 3 (three) months after notice of such failure or contravention has been conveyed to the company by the Authority;

(iii) that it appears from the returns furnished in pursuance of the provisions of this Act or from the results of any investigation made thereunder that the company failed to maintain solvency margin; or

(iv) that the continuance of the company is prejudicial to the interest of the policyholders, or to the public interest.

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(3) An insurance company in respect of which a winding up order is made under this section shall immediately cease to enter into new contracts of insurance, whether in life or non-life insurance.

(4) All contracts of non-life insurance issued by an insurer which are in force at the date of an order for the winding up of the insurer shall be deemed to be cancelled as at the date of the order or at such later date as may be specified in the order.

14. Unpaid up share capital.—Notwithstanding anything contained in any other law, for the purpose of this Act no account shall be taken of any assets of the insurer consisting of unpaid up share capital in ascertaining the insurer’s capacity to pay its debt or otherwise.

15. Voluntary winding up.—Notwithstanding anything contained in the Company Act, an insurance company shall not be wound up voluntarily except on the grounds of effecting an amalgamation or a re-construction of the company or on the grounds that by reason of its liabilities it cannot continue its business or its licence has been revoked.

16. Valuation of liabilities.—(1) In the winding up of an insurance company or in the insolvency of any insurer the value of the assets and the liabilities of the insurer or insurance company shall be ascertained in such manner and upon such basis as the liquidator or receiver in insolvency thinks fit, subject so far as applicable to the rule specified in the second schedule and to any directions which may be given by the Court.

(2) For the purposes of any reduction by the Court of the amount of the contracts of any insurance company the value of the assets and liabilities of the company and all claims in respect of policies issued by it shall be ascertained in such manner and upon such basis as specified in the directions given by the Court.

(3) Rules may be made under this section for the purpose of bringing into force the provisions of this Act in giving effect to the winding up of insurance companies and such rules may be altered or amended in the same manner as rules under the company Act can be done.

17. Application of surplus assets of life insurance fund in liquidation or insolvency.—(1) In the winding up of an insurance company carrying on the life insurance business or in the insolvency of any other insurer carrying on such business the value of the assets and the liabilities of the insurer in respect of life insurance business shall be ascertained separately from the value of any other assets or any other liabilities of the insurer and no such surplus assets shall be applied to the discharge of any liabilities other than those in respect of life insurance business.

(2) In the winding up of an insurance company carrying on the business of life insurance or in the insolvency of any other insurer carrying on such business where any proportion of the profits of the insurer was before the commencement of the process of winding up or insolvency allocated to policy-holders, if, when the assets and liabilities of the insurer have been ascertained, there is found to be a surplus of assets over liabilities (hereinafter referred to as a prima facie surplus) there shall be added to the liabilities of the insurer in respect of the life insurance business an amount equal to such proportion of the prima facie surplus as is equivalent to such proportion of the profits allocated to shareholders and policy- holders as was allocated to policy-holders during the 1 (ten) years immediately preceding the commencement of the process of winding up and the assets of the insurer shall be deemed to exceed his liabilities only in so far as those assets exceed those liabilities after such addition:

Provided that—

(a) if in any case there has been no such allocation or if it appears to the Court that by reason of special circumstances it would not be logical or lawful or appropriate that the aforesaid amount should be added to the liabilities of the insurer in respect of the life insurance

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business, the amount to be so added shall be such as the Court may direct; and
(b) for the purpose of the application of this sub-section to any case where before the commencement of the winding up or insolvency a proportion of such profits as aforesaid of a branch of the life insurance business in question has been allocated to policy-holders, the value of the assets and liabilities of the insurer in respect of that branch shall be separately ascertained in like manner as the value of his assets and liabilities in respect of the life insurance business was ascertained and the surplus so found, if any, of assets over liabilities shall for the purpose of determining the amount to be added to the liabilities of the insurer in respect of the life insurance business be deemed to be the prima facie surplus.

18. Winding up subsidiary companies.—(1) Where the insurance business or any part of the insurance business of an insurance company has been transferred to another insurance company under an arrangement in pursuance of which the first mentioned company has (hereinafter referred to as the subsidiary

company) or the creditors thereof have claims against the company to which such transfer was made (hereinafter referred to as the principal company), then, if the principal company is being wound up by the direction or under the supervision of the Court, the court shall order the subsidiary company to be wound up in conjunction with the principal company and shall by the same or any subsequent order appoint the same person to be liquidator for the two companies and make provision for such other matters as may seem to the Court necessary with a view to the companies being wound up as if they were one.

(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 concerned companies among themselves the Court shall have regard to the constitution of the companies and to the arrangements entered into between the companies in the same manner as the Court has regard to the rights and liabilities of different classes of 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 alleged to be subsidiary the Court shall not direct the principal company to be wound up, unless after hearing all objections (if any) that may be urged by or on behalf of the company against its being wound up, the Court is satisfied 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 the principal company by any creditor of or person interested in the principal or subsidiary company.

(6) Where a company stands in the relation of a principal company to one insurance company and in the relation of a subsidiary company to some other insurance company or where there are several insurance companies standing in the relation of subsidiary companies to one principal company the Court may deal with any number of such companies together or in separate groups as it thinks most expedient upon the principles laid down in this section.

19. Scheme for partial winding up of insurer.—(1) If at any time it appears expedient that the affairs of an insurance company in respect of any class of insurance business comprised in the undertaking of the company should be wound up but that any other class of business should continue

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to be carried on by the company or be transferred to another insurer, a scheme for such purposes may be prepared and submitted for confirmation of the Court in accordance with the provisions of this Act.

(2) Any scheme prepared under this section shall provide for the allocation and distribution of the assets and liabilities of the company between the class of business affected, including the allocation of any surplus assets which may arise on the proposed winding up, for any future rights of every class of policy-holders in respect of their policies and the affairs of the company which are proposed to be wound up and shall contain provisions for altering the memorandum of the company with respect to its objects and such further provisions as may be expedient for giving effect to the scheme.

(3) The provisions of this Act relating to the valuation of liabilities of insurers in liquidation and insolvency and to the application of surplus assets of the life insurance fund in liquidation or insolvency shall apply to the winding up of any part of the affairs of a company in accordance with the scheme under this section in like manner as they in the winding up of an insurance company and the provisions of the Company Act relating to winding up of companies shall apply to any scheme under this section with the necessary modifications.

(4) An order of the Court confirming a scheme under this section whereby the memorandum of a company is altered with respect to its objects shall as respects the alteration have effect as if it were an order confirmed under Company Act and shall apply accordingly.

(5) When making an order confirming a scheme under this section, the Court may make such orders as it considers necessary for the disposal of so much of the deposit made by the company under section 23 and section 119 as does not relate to the classes of insurance business, if any, which the company continues to carry on.

11. Return of deposits.—In the winding up of an insurance company, otherwise than in a case to which section 19 applies, and in the insolvency of any other insurer the liquidator or assignee, as the case may be, may apply to the court for an order for the return of the deposit made by the company or the insurer, as the case may be, under section 23 or section 119 and the court shall on such application order a return of the deposit subject to such terms and conditions as it shall determine.

111. Notice of policy values.—In the winding up of an insurance company for the purposes of distribution of cash and assets and in the insolvency of any other insurer the liquidator or assignee, as the case may be, in the case of all persons appearing by the books of the company or other insurer to be interested or will be interested in the policies issued by the company or other insurer shall ascertain the value of the liability of the company or other insurer to each such persons and shall give notice of such value to those persons in such manner as the Court may direct and any person to whom notice is so given shall be bound by the value so ascertained unless he gives notice of his intention to dispute such value in such manner and within such time as may be specified by rules or order of the Court.

112. Power of Court to reduce contracts of insurance.—(1) Where an insurance company is in liquidation or any other insurer is insolvent the Court may make an order reducing the amount of the insurance contracts of the company or other insurer subject to such conditions as determined by it.

(2) Where a company carrying on the business of the life insurance has been proved to be insolvent, the Court may, if it thinks fit, in place of making a winding up order reduce the amount of the insurance contracts of the company upon such terms and subject to such conditions as determined by it.

(3) Application for an order under this section may be made either by the liquidator or by or on behalf of the company or by a policy-holder or by the Authority and any person whom the Court thinks likely to be affected shall be entitled to be heard on any such application.

SPECIAL PROVISIONS FOR EXTERNAL COMPANIES

113. Power of Government to impose reciprocal disabilities on non- Bangladeshi companies.—Where, by the law or practice of any country outside Bangladesh, in which insurers are

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subject to certain special conditions for carrying on insurance business in that country and those conditions are also applicable to insurers constituted or incorporated in Bangladesh; in such cases, the Government shall, if satisfied of the existence of such special requirement, by Gazette notification, direct that the same requirement, or requirements as similar thereto as may be, shall be imposed upon insurers of that country as a condition of carrying on the business of insurance in Bangladesh.

114. Particulars to be filed by insurers established outside Bangladesh.— Every insurer, having its principal place of business or domicile outside Bangladesh, who establishes a place of business within Bangladesh, or appoints a representative, in Bangladesh with the object of procuring insurance business, shall, within 3 (three) months from the establishment of such place of business or the appointment of such representative, file with the Authority the following information, namely :—

- (a) a certified copy of the charter, statutes, deed of settlement or memorandum and articles of association or other instrument constituting or defining the constitution of the insurer, and, if the instrument is not written in English, an authentic translation thereof;
- (b) the full address of the insurer in Bangladesh;
- (c) the name and address of one or more persons resident in Bangladesh authorized to accept any process or notice on behalf of the insurer together with a copy of the power of attorney granted to him;
- (d) a list of the Directors, if the insurer is a company;
- (e) a statement of the class of insurance business to be carried on by the insurer; and
- (f) a statement verified by an affidavit setting forth the special requirements, if any, of the nature specified in section 113 imposed in the country of origin of the insurer on Bangladesh nationals.

115. Books to be kept by insurer established outside Bangladesh.— Every insurer having its principal place of business or domicile outside Bangladesh shall keep at its principal office in Bangladesh such books of account, registers and documents as will enable the accounts, statements and abstracts which he is required under this Act to furnish to the Authority in respect of the insurance business in Bangladesh to be compiled and, if necessary, checked by the Authority and shall furnish to the Authority on or before the last day of January in every calendar year a certificate from an auditor to the effect that the said books of account, registers and documents are being kept as required at the principal office of the insurer in Bangladesh.

CHAPTER III MUTUAL INSURANCE COMPANIES AND CO-OPERATIVE INSURANCE SOCIETIES

116. Definitions.—In this Chapter—

- (a) “mutual insurance company” means an insurer, being a company registered under the Company Act or under any Act repealed thereby, which has no share capital and of which, by its constitution, only and all policy-holders are members;
- (b) “co-operative insurance society” means a co-operative society registered under the Co-operative Societies Act and registered as an insurer under the Insurance Act, 1938 before the commencement of this Act.

117. Application of this Act to mutual insurance companies and co-operative insurance societies.—The provisions of sections 21, 22, 23, 36 and clause (c) of sub-section (9) of section 44, shall, in so far as those provisions are inconsistent with the provisions of this Chapter, not apply to mutual insurance companies and co-operative insurance societies; and the provisions of this Chapter shall apply to mutual insurance companies and co-operative insurance societies.

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118. Working capital of Mutual Insurance Companies and Co-operative Insurance

Societies—No Mutual Insurance Company and Co-operative Insurance Society shall be registered under this Act, unless it has as working capital a sum specified in the First Schedule, exclusive of the deposit to be made before application for registration and of the preliminary expenses incurred in the formation of the company or society.

119. Deposits to be made by Mutual Insurance Company and Co- operative Insurance

Societies.—(1) Every Mutual Insurance Company and every Co-operative Insurance Society shall deposit at the time of making application for registration and keep deposited with the Bangladesh Bank the amount specified in the First Schedule either in cash or in approved securities estimated at the market value of the securities on the day of the deposit, or partly in cash and partly in approved securities so estimated.

(2) A deposit made in cash shall be held by the Bangladesh Bank to the credit of the co-operative insurance society.

(3) The co-operative insurance society may at any time replace any securities deposited by him under this section with the Bangladesh Bank either by cash or by other approved securities or partly by cash and, partly by other approved securities, provided that such cash, or the value of such other approved securities estimated at the market rates prevailing at the time of replacement, or such cash together with such value, as the case may be, is not less than the value of the securities replaced estimated at the market rates prevailing when they were deposited.

(4) The Bangladesh Bank may, if so applied by the co-operative insurance society,—

(a) sell any securities deposited by it with the Bank under this section and hold the cash realised by such sale as deposit; or

(b) invest in government securities specified by the insurer the whole or any part of a deposit held by it in cash or the whole or any part of cash received by it on the sale of or on the maturing of securities in which investment is so made as deposit, and may charge the normal commission on such sale or on such investment.

(5) Where sub-section (4) of this section applies,—

(a) if the cash realised by the sale of or on the maturing of the securities (excluding the interest accrued) falls short of the market value of the securities at the date on which they were deposited with the Bank, the insurance society shall make good the deficiency by a further deposit either in cash or in Government securities estimated at the market value of the securities on the day on which they are deposited, or partly in cash and partly in Government securities so estimated, within a period of 2(two) months from the date on which the securities matured or were sold and unless he does so, the insurance society shall be deemed to have failed to comply with the requirements of this section as to deposits; and

(b) if the cash realised by the sale of or on the maturing of the securities (excluding the interest accrued) exceeds the market value of the securities at the date on which they were deposited with the Bank, the Authority may, if satisfied that the full amount required to be deposited under sub-section (1) of this section is in deposit, direct the Bangladesh Bank to return the excess.

(6) If any part of such deposit is used in the discharge of any liability of the insurance society the insurance society shall deposit such additional sum in cash or in government 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 and the insurance society shall be deemed to have failed to comply

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with the requirements of sub-section (1) of this section, unless the deficiency is supplied within a period of two months from the date when the deposit is so used for discharge of liabilities.

12. Restriction on loans.—The provisions of section 44 regarding loans shall apply to cooperative insurance societies as they apply to other insurers.

121. Transferees and assignees of policies not to become members.—No transferee or assignee of a policy issued by an insurer to whom the provisions of this Chapter apply shall become a member of a Mutual Insurance Company or a Co-operative Insurance Society merely by reason of any such transfer of assignment.

122. Publication of notice and documents of mutual insurance companies and cooperative insurance societies.—Notwithstanding the provisions of the company Act, a mutual insurance company or a co-operative insurance society shall instead of sending the balance-sheet, revenue account and other documents which they are required to send to the members under relevant sections, publish documents once in a newspaper published in English and in a newspaper published in Bengali circulating in the place where the principal office of the company is situated.

123. Supply of documents to members.—Every mutual insurance company or every cooperative insurance society shall, on the application of any member made within 2 (two) years from the date on which any such documents is furnished to the Registrar of companies or to the Registrar of co-operative societies furnish a copy of the document free of cost to the member within 14 (fourteen) days of the application.

CHAPTER IV INTERMEDIARIES

124. Appointment of Insurance Agents.—(1) An insurer or broker shall appoint and register a person as an insurance agent and every insurer or broker shall maintain in such manner as may be prescribed by regulations made by the Authority, a register of all such appointment and registration as insurance agent.

(2) Every insurer or broker is required to send a copy of the register being maintained under subsection (1) annually to the Authority, and shall keep the Authority informed of any additions or deletions made in the list on quarterly basis in such manner as may be prescribed by regulations.

(3) The Authority shall have the right to require an insurer or broker to delete the name of any insurance agent appearing in the register submitted to the Authority by such insurer or broker, when it considers the person concerned to be unsuitable to function as an insurance agent, having regard to the interests of the non-life policy-holders.

(4) The Authority may, by regulations made in that behalf, determine the qualifications and other conditions for appointment, duration of registration and renewal fee and manner of payments of such fee of the insurance agents.

(5) No insurer or broker shall appoint as an insurance agent under him any person who is already registered as an insurance agent with any other insurer or broker.

(6) No insurer or broker shall appoint any registered insurance agent under him without release order from the previous insurer or broker with whom the agent was registered:

Provided that if any agent submits application of resignation to the insurer or broker, then they shall issue release order to him within 15 (fifteen) days from the date of submission of such application if no dues lies against him.

125. Appointment of employer of agents.—(1) An insurer carrying on life insurance business shall appoint a person or a body corporate to act as an employer of agents for the purpose of soliciting or procuring life insurance business who holds a certificate of employer of agents issued by the Authority.

(2) The Authority shall, by regulations, determine the qualification and other conditions, duration of the certificate, registration fee and renewal fee and the manner of payments of such fee for issuing

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certificate of employer of agents.

126. Insurance broker to be licensed.—(1) An insurer carrying on non- life insurance business may appoint an insurance broker holding the license of insurance broker issued by the authority.
(2) No person other than a company will be eligible to receive insurance broker licence.
(3) The government shall, by rules, determine, among other things, paid-up capital, qualification, organization, registration fee, renewal fee and the manner of payments of such fee for issuance of licence and the essential matters relating to issuance, renewal, deferral of cancellation of licenses.
(4) It shall be unlawful for any person to act as or describe himself or hold himself out or permit himself to be described or held out as an insurance broker for non-life insurance business unless he holds a valid insurance broker’s license issued by the Authority.

127. Licensing of insurance surveyors.—(1) No person other than an insurance surveyor holding a license under this section shall, undertake in Bangladesh the surveying, assessment or adjustment of any loss in respect of non-life insurance business and no insurer shall pay any claim in respect of non- life insurance business transacted by him in Bangladesh unless the loss has been surveyed, assessed or adjusted, as the case may be, by an insurance surveyor holding a license under this section.

(2) An application for a license under this section shall be made to the Authority in such manner and be accompanied by such fee as may be prescribed by rules.

(3) The insurance surveyors may be classified into such sub-classes as may be prescribed by rules, and, if so classified, separate applications shall be made and separate licenses shall be issued in respect of each such sub-class.

(4) The Authority may on receipt of an application under this section, call for such information or explanation as it may deem fit, or ask the applicant to appear before it in person, and on being satisfied that the applicant fulfils such requirements as may be required and is fit to hold the license applied for, grant such license, subject to sub-section (7) of this section.

(5) An applicant who has been refused a license of any sub-class under this section shall not be entitled to make a fresh application for a license of the same sub-class before the expiry of a period of 1(one) year from the date of such refusal.

(6) In the case of an individual, the applicant himself or, in the case of a company or firm, any of its Directors or partners, shall not suffer from any of disqualifications mentioned below :

- (a) that the person is a minor;
- (b) that he has been declared to be of unsound mind by a court of competent jurisdiction;
- (c) that he has been found guilty of criminal misappropriation or criminal breach of trust of cheating or forgery or an abetment of or attempt to commit any such offence by a Court of competent jurisdiction ;

Provided that, where in the case of a person convicted of any such offence, 5(five) years have elapsed since the date of the sentence or, where the sentence was imprisonment with or without fine, from the date of his release, the Authority may declare in respect of such person that his conviction shall cease to debar him from making such an application;

(d) in the course of any judicial proceeding relating to any policy of insurance or the winding up of an insurance company or in the course of an investigation into the affairs of an insurer, it has been found that he has been guilty of or has knowingly participated in or connived at any fraud, dishonesty or impersonation against an insurer of an insured.

(7) A license issued under this section shall remain in force for a period of 1(one) year from the date of issue, but shall on application made in this behalf, be renewed from year to year, if applicant

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fulfils such requirements as may be prescribed by the rules.

(8) The Authority shall if it refuses a license or the renewal of a license under this section, communicate its decision in writing mentioning the reason of refusal to the applicant for such license or renewal within 3 (three) months from the date of the application.

(9) Every surveyor and loss assessor shall comply with the code of conduct in respect of their duties, responsibilities and other professional requirements as may be prescribed by the regulations.

(1) Where it is found that an insurance surveyor being a person is, or being a company or firm contains a director or partner who is, suffering from any of the disqualifications prescribed under subsection (6), without prejudice to any other penalty to which he may be liable, and where it is proved to the satisfaction of the Authority that the insurance surveyor has—

(a) given a false report; or

(b) grossly over-assessed or under-assessed any loss; or

(c) made an adjustment of loss in a grossly unjust manner, the Authority may cancel the license or licenses held by that insurance surveyor :

Provided that in the event of cancellation of a license under the discretionary powers of the Authority under this section, the Government may, upon an application made to it in this behalf, call for a report from the Authority and, after considering such report and hearing the applicant, give such direction to the Authority as it may deem fit.

(11) The Authority which issued any license under this section may issue a duplicate license to replace a certificate lost, destroyed or mutilated on payment of a prescribed fee.

(12) Any person who acts in contravention of this section shall be punished with fine not exceeding Taka 1(one) lac and where the person contravening is a company then, without prejudice to any other proceedings which may be taken against the company, every director, manger, secretary or any other officer of the company who is knowingly a party to such contravention shall be punished with fine not exceeding Taka 5 (fifty) thousand.

128. Second Survey.—(1) If the Authority has reason to believe that an insurance surveyor has given a false report or has grossly over-assessed or under- assessed a loss or has made an adjustment of loss in grossly unjust manner, in that case the Authority may direct the insurer to arrange for another survey of that loss through any other surveyor or surveyors approved by it.

(2) In the event of the second survey under sub-section (1) the surveyor of surveyors shall forward one copy of the report to the Authority who on considering such report and after giving an opportunity to the first surveyor to be heard, may cancel the license of the first surveyor concerned in accordance with this Act and the Authority may in the interest of the policy-holder on the basis of the second survey report, give such directions as it deems fit upon the insurer after giving him opportunity of being heard :

Provided that the second surveyor shall be appointed within a period not exceeding 45 (fortyfive) days after the date of submission of the first survey report to the insurer and the insured as well with due acknowledgement and the survey shall be completed within such time as may be specified by the Authority.

129. Powers to ensure compliance with certain provisions.—For the purpose of ensuring compliance with the provisions of sections 58, 59, 62, 63, 124, 125, 126, 132, 135, 138 and 139 the Authority may, by notice,—

(a) require from an insurer or an employer of agents or an insurance agent or an insurance broker or an insurance surveyor such information certified, if deemed necessary by the Authority, by an Auditor or an Actuary;

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- (b) issue such directions to the insurer as it may deem necessary;
- (c) require an insurer, an employer of agents, an insurance agent, insurance broker or an insurance surveyor to submit for its examination at the principal place of business of the insurer in Bangladesh any book of account, register or other document or to supply any statement which may be specified in the notice.

CHAPTER-V OFFENCES AND PENALTIES

13. imposition of fine for default in complying with, or act in contravention of this

Act.—If any person, under this Act of rules or regulations made there under,—

- (a) fails to furnish any statement, account, return or report to the Authority;
- (b) fails to comply with the directions;
- (c) fails to maintain solvency margin;
- (d) fails to comply with the directions on the insurance contracts; or
- (e) fails to comply with the directions on the reinsurance treaties, he may be made liable to fine not exceeding Taka 5 (five) lac for each such failure and in the case of continuing default he may be made further liable to additional fine not exceeding Taka 5 (five) thousand for every day.

131. Penalty for providing false information in document, statement, account, return

etc.—If a person makes a statement or furnishes any document, statement, account, return or report which is false of which he either knows or believes to be false or does not believe to be true, he shall be punished with imprisonment for a term which may extend to 3 (three) years, or shall be liable to fine not exceeding Taka 5 (five) lac, or with both.

132. Penalty for carrying on insurance business in contravention of certain sections.—If any person contravenes the provisions of sections 8, 23,41,43,46 or 119, he shall be liable to fine not exceeding Taka 5 (five) lac for each such contravention.

133. Misleading statement, promise of forecast for the purpose of inducing to enter into contract of insurance.—Any person who, by any statement, promises or forecasts which he knows to be misleading, false, or deceptive, or by any fraudulent marking of any statement or forecast which is misleading, false or deceptive, attempts to induce another person to offer to enter into any contract of insurance with an insurer shall be charged for this offence and shall, on conviction, be punished with fine not exceeding Taka 1 (ten) lac, or with imprisonment for a term not exceeding 3 (three) years, or with both.

134. Personal fine for default in complying with, or act in contravention of this act.—Except as otherwise provided in this act, any director, share holder, chief executive officer, manager or other officer of the insurer or broker or any partner, surveyor or other officer of it or an agent of employer of insurance agent who makes default in complying with or acts in contravention of any provision of this Act and who is knowingly a party to the default, shall be punished with fine for maximum Taka 1 (one) lac and minimum Taka 5 (fifty) thousand and, in the case of a continuing default, with an additional fine not more than Taka 5 (five) thousand for every day during which the default continues.

135. Wrongfully obtaining of withholding property.—(1) Any director, or other officer or employee of an insurer who wrongfully obtains possession of any property of the insurer of having any such property in his possession wrongfully withholds it or willfully applies it to purposes other than those expressed or authorized by this Act, shall, after giving the insurer not less than 15 (fifteen) days notice of its intention, on the complaint of the insurer or any member or any policyholder thereof be punished with fine for Taka 15 (fifteen) lac and may be ordered by the Court trying the offence to deliver up or refund

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within a time to be fixed by the Court any such property improperly obtained or wrongfully withheld or willfully misused and in default to suffer imprisonment for a term not exceeding 2 (two) years.

(2) For the purpose of this section, property of a life insurance statutory fund maintained by an insurer is property of that insurer.

136. Power of court to order restoration of property of insurer of compensation in certain cases.—

(1) If on the application of the Authority or an administrator appointed under section 95 or an insurer or any member of an insurance company or the liquidator of an insurance company (in case of a company being in liquidation) the Court is satisfied that—

(a) any insurer (including in any case where the insurer is an insurance company, any person who has taken part in the promotion or formation of the insurance company or any past or present director, managing director, manager, secretary or liquidator) or any officer, employee or agent of the insurer;

(i) has misapplied or retained or become liable or become accountable for any money of property of the insurer, or

(ii) has been charged for any misfeasance or breach of trust in relation to the insurer;

(b) any person, whether he is or has been in any way connected with the affairs of the issuer is in wrongful possession of any money or property of the insurer or having any such money or property in his possession wrongfully withholds it or has converted it to any use other than that of the insurer; or

(c) by reason of any contravention of the provisions of this Act, the amount of the life insurance fund has been diminished; the Court may examine any such insurer, director, manager, managing agent, secretary or liquidator or any such officer, employee, or agent of the insurer or such other person, as the case may be, and may compel him to contribute such sums to the assets of the insurer by way or compensation in respect of the misapplication, retainer, misfeasance or breach of trust as the Court thinks fit, or to restore any money of property of the insurer or any part thereof, as the case may be; and where the amount of the life insurance fund has been diminished by

reason of any contravention of the provisions of this Act, the Court shall have power to assess the sum by which the amount of the fund has been diminished and to order the person guilty of such contravention to contribute to the fund the whole or any part of that sum by way of compensation; and in any of the aforesaid cases the Court shall have power to order interest to be paid at such rate and from such time as the Court may deem fit.

(2) Without prejudice to the provisions contained in sub-section (1) or sub- section (3) where it is proved that any money or property of an insurer has disappeared or has been lost, the Court shall presume that every person in charge of such money or property at the relevant time (whether a Director, Managing Director, Manager, Chief Executive Officer or any other officer) is liable for such money or property within the meaning of sub-clause (i) of clause (a) of sub- section (1) and the provisions of that sub-section shall apply in the same manner, unless such person proves that the money or property has been utilized or disposed of in the ordinary course of the business of the insurer or that he took all reasonable steps to prevent the disappearance or loss of such money or property and otherwise satisfactorily accounts for such disappearance or loss.

(3) Where the insurer is an insurance company and any of the acts referred to in clauses (a), (b) and (c) of sub-section (1) has been committed by any person of that insurance company, every person who was at the relevant time a director, managing director, manager, liquidator, secretary or other officer of the insurance company shall, for the purposes of this sub-section be deemed to be liable for that act in the same manner and to the same extent as the person who has committed the act, unless he

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proves that the act was committed without his permission or connivance and was not facilitated by any neglect or fault on his part.

(4) Where at any stage of the proceedings against any person under this section (hereinafter referred to as the accused), the Court is satisfied by affidavit or otherwise that a prima facie case has been made out against the accused; and that it is just and proper so to do in the interest of the policyholders of an insurer or of the members of an insurance company, the Court may direct the attachment of the following, namely :—

- (a) property of the insurer in the possession of the accused;
- (b) property of the accused which belongs to him or is deemed to belong to him within the meaning of sub-section (5);

(c) any property transferred by the accused within two years before the commencement of proceedings under sub-section (1) or during the pendency of such proceedings, if the Court is satisfied by an affidavit or otherwise that the transfer was otherwise than in good faith and for equitable consideration.

(5) For the purpose of sub-section (4) the following classes of property shall be deemed to belong to the accused, namely :—

- (a) any property standing in the name of any person which by reason of the person being connected with the accused, whether by way of relationship or on account of any other relevant circumstances appear to belong to the accused;
- (b) the property of a private company in respect of the affairs of which the accused by himself or through his nominees, relatives, partners or persons interested in any shares of the company is able to exercise or is entitled to acquire control, whether direct or indirect.

Explanation.—For the purposes of this section a person shall be deemed to be a nominee of an accused if he, whether directly or indirectly, possesses on behalf of the accused or may be required to exercise on the direction or on behalf of the accused any right or power which is of such a nature as to enable the accused to exercise or to entitle the delinquent to acquire control over the company’s affairs.

(6) Any claim to any property attached under this section or any objection to such attachment shall be made by an application to the Court and it shall be for the claimant or objector to adduce evidence to show that the property is not liable to attachment under this section and the Court shall proceed to investigate the claim or objection in a summary manner.

(7) When disposing of an application under sub-section (1) of this section the Court shall after giving all persons who appear to it to be interested in any property attached under this section an opportunity of being heard, make such order as it thinks fit respecting the disposal of any such property for the purpose of effectually enforcing any liability under this section and all such persons shall be deemed to be parties to the proceedings under this section.

(8) In any proceedings under this section the Court shall have full powers and exclusive jurisdiction to declare all questions of any nature whatsoever arising there under and in particular, with respect to any property attached under this section and no other Court shall have jurisdiction to decide any such question in any suit or other legal proceedings.

(9) In making any order with respect to the disposal of the property of any private company referred to in clause (b) of sub-section (5) the Court shall have due regard to the interests of all persons interested in such property other than the accused and persons referred to in that clause.

(1) In proceedings under this section the Court shall have all the powers which a Court has under the Company Act.

(11) This section shall apply in respect of an insurance company or a cooperative insurance

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society as defined in Chapter-III as it applies in respect of an insurer.

(12) The Court entitled to exercise jurisdiction under this section shall be the High Court Division and any proceedings under this section pending immediately before the commencement of this Act in any Court other than the High Court Division shall on such commencement be transferred to the High Court Division.

(13) For the Purposes of this section, the Supreme Court may make rules on the following matters, namely :—

(a) the procedures in which investigations and proceedings may be held under this section; and

(b) any or all matters relating to effectively exercise its jurisdiction under this section.

137. Notice to and hearing of the Authority.—(1) When application is made to the Court for making of any order to which this section applies the Court shall unless the Authority has itself made the application or has been made a party thereto send a copy of the application together with intimation of the date fixed for the hearing thereof to the Authority and shall give it an opportunity of being heard.

(2) This section shall apply to the following orders, namely :—

(a) an order for the attachment in execution of decree of any deposit made under section 23 or 119;

(b) an order under section 25 or 11 for the return of any such deposit;

(c) an order approving any arrangement for the transfer or amalgamation of life insurance business or any order consequential thereon;

(d) an order for the winding up of an insurance company or a mutual insurance company or a co-operative insurance society;

(e) an order under section 19 confirming a scheme for the partial winding up of an insurance company;

(f) an order reducing the amount of the insurance contracts of an insurance company or a mutual insurance company or a co-operative insurance society.

138. Previous sanction of Attorney General for institution of proceedings.—(1) Except where proceedings are instituted by the Authority no proceedings against an insurer or any director, manager or other officer of an insurer or any person who is liable under this Act shall be instituted by any person unless he has obtained thereto previous sanction of the Attorney General for the institution of such proceedings.

(2) This section shall apply in respect of a Mutual Insurance Company or Co-operative Insurance Society as defined in Chapter-III as it applies in respect of an insurer.

139. Power of Court to grant relief.—If in any proceedings either civil or criminal, it appears to the Court that a person is or may be liable in respect of negligence, default, breach of duty or breach of trust but that he has acted honestly and reasonably and that having regard to all the circumstances of the case, the Court may relieve him either wholly or in part from his liability for negligence, default, breach of trust on such terms as it may think fit.

14. Cognizance of offence and trial.—(1) No Court shall take cognizance of an offence except upon complaint in writing made by the Chairman of the Authority or an officer authorized in writing, on his behalf.

(2) The offences under this Act shall be triable by a Magistrate of the First Class or a Metropolitan Magistrate, as the case may be.

141. Offence to be non-cognizable and bailable.—The offences under this Act shall be noncognizable, bailable and compoundable.

142. Appeal.—(1) An appeal shall lie to any Court having jurisdiction against any of the following orders, namely :—

(a) an order under sections 8 and 1 refusing to register, or canceling the registration of an insurer;

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- (b) an order under section 15 directing the insurer to change his name;
- (c) an order under section 124, 125, 131 or 138 Canceling the licence issued to an employer of agents or insurance broker or insurance surveyor, or deleting the name of any insurance agent appearing in the register of an insurer;
- (d) an order made in the course of the winding up or insolvency of an insurer.
- (2) The Court having jurisdiction for the purpose of sub-section (1) shall be the principal Court of civil jurisdiction within whose local limits the principal place of business of the insurer concerned is situated.
- (3) An appeal shall lie against any order passed under sub-section (1) to the Court competent to hear appeals and the decision on such appeal shall be considered final.
- (4) No appeal under section shall be entertained unless it is made before the expiration of 4 (four) months from the date on which the order appealed against was communicated to the appellant.

CHAPTER-VI MISCELLANEOUS

143. **Delegation of powers and duties of the Authority.**—The Authority may, by general or special order, delegate any of its powers or duties under this Act to any person sub-ordinate to it and the powers or duties so delegated shall be subject to such restriction, limitations and conditions, if any, as the Authority may impose and shall be subject to control and revision of its Chairperson.

144. **Signature of document.**—Every document which is required by this Act or by any rule made thereunder to be signed by the Chairperson of the Authority or by any person subordinate to him or by any officer authorized under sub-section (2) of section 125 or subsection (4) of section 127 shall be deemed to

be properly signed if it bears a facsimile of the signature of such Chairperson or officer of the Authority printed, engraved, lithographed or impressed by any other mechanical process approved by the Government.

145. **Service of notice.**—(1) Any process or summon required to be served on an insurer or mutual insurance company or cooperative insurance society, shall be deemed to be sufficiently served if addressed to any person registered with the Authority as a person authorized to accept such process or summon on behalf of the insurer or mutual insurance company or cooperative insurance society and left at, or sent by registered post to the address of such person as registered with the Authority.

(2) Any notice or other document which is by this Act required to be sent to any policy-holder may be addressed and sent to the person to whom notices respecting such policy are usually sent and any notice so addressed and sent shall be deemed to be the notice to the holder of such policy : Provided that where any person claiming to be interested in a policy as transferee, assignee or nominee has given to an insurer or to a mutual insurance company or cooperative insurance society notice in writing of his interest, any notice which is by this Act required to be sent to policy-holders shall also be sent to such person.

146. **Power to make rules.**—The Government may, by notification in the official Gazette, make rules in respect of different matters including Islamic insurance, under this Act.

147. **Power of the Government to amend Schedules.**—The Government may, by notification in the official Gazette, make such amendments in the Schedules as it may deem fit.

148. **Power to make regulations.**—For the purposes of this Act, the Authority may, with the approval of the Government, by notification in the official Gazette, make regulations not inconsistent with this Act or rules made thereunder.

149. **Summary of returns to be published.**—The Authority shall every year cause to be published in such manner as it may determine a summary of the accounts, balance-sheets, statements, abstracts and other returns under this Act and may append to such summary any note of the Authority.

15. **Knowledge of and statement by authorized agent to be deemed knowledge and statement by insurer or broker or employer of agents.**—(1) A person who has at any time been authorized as its agent by an insurer or broker or employer of insurance agents, as the case may be, for

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the purpose of soliciting or negotiating a contract of insurance in such capacity shall in every such instance be deemed for the purpose of execution of the contract to be the agent of the insurer and the knowledge of such person relating to any matter relevant to the acceptance of the risk by the insurer shall be deemed to be the knowledge of the insurer.

(2) Any statement made or any act done by any such person in his capacity as an agent shall be deemed, for the purpose of the execution of the contract, to be a statement made or act done by the insurer notwithstanding the fact that such statement or act contravenes section 145 or any other provision.

(3) This provisions of this section shall not apply to the following, namely :—

(a) where there is collusion or connivance between such person and the proposed policyholder in the execution of the contract;

(b) where such person has ceased being its agent and the insurer has taken all reasonable steps to inform or bring to the knowledge of potential policy-holder and the public in general the fact of such cessation.

151. Saving of Provisions of Company Act.—Nothing in this Act shall affect the liability of an insurer being an insurer or a mutual insurance company or cooperative insurance society as defined in Chapter-III being a company to comply with the provisions of Company Act in matters not otherwise specifically provided for by this Act.

152. Inspection and supply of copies of published prospectus etc.—Any person may, on payment of such fee as may prescribed by rules, inspect the documents filed by an insurer with the Authority under clause (h) of sub-section

(5) of section 8, and may obtain a copy of any such document or part thereof on payment in advance at the rate prescribed by rules.

153. Determination of market value of securities deposited under this Act.—The market value on the day of deposit of securities deposited in pursuance of the provisions of this Act with the Bangladesh Bank shall be determined by the Bangladesh Bank and in this regard the decision of the Bangladesh Bank shall be final.

154. Advisory Committee.—The Authority shall, in consultation with the Government, form an Advisory Committee in such manner as may be prescribed by regulations to advise in the performance of its duties under this Act, and shall determine its mode of operation.

155. To levy tax on net premium income.—The Government may levy and collect tax, from time to time, by order published in the official Gazette, on the annual net premium income of every insurer and such rate shall not exceed one half per centum of such annual net premium income.

156. Policy-holders Protection Fund etc.—(1) The Authority shall establish a Fund to be called the “Life Policy holders Protection Fund”. Money realized from the levy charged on the insurer carrying on life insurance business shall, in consultation with the Government, be credited to this Fund.

(2) The money lying to the credit of the Fund shall be utilized for the general protection of the life insurance policy-holders and for such other purposes as may be prescribed by regulations.

(3) Any money which is not immediately required for any of the purposes referred to in subsection (2), shall be invested by the Authority in a prudent manner which would yield maximum return and safeguard the investment.

157. Statistics.—(1) The Authority shall, in such manner and at such intervals as may be prescribed by regulations, collect statistical information as to such matters relevant to insurance, and the rules of such collection of information and use thereof, whether related to insurance or unrelated, shall be contained in the regulations made under this section.

(2) Notwithstanding anything contained in sub-section (1), regulations made under this section shall make provision for requiring insurer, insurance brokers and surveyors to furnish to the Authority, in such form and such information as may be specified.

(3) No use shall be made of any information obtained by or on behalf of the Authority by virtue

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of this section except in a form which does not disclose the affairs of any particular person.

158. **Secrecy.**—Except for the purposes of this Act or of any criminal proceedings under this Act, no person appointed to exercise any power under this Act shall disclose any information with respect to any individual business or the affairs of any individual participant of an insurer which has been obtained in the course of his duties and is not required to be published under this Act.

159. **Publication of English translation of this Act.**—(1) The Government shall, by notification in the official Gazette, publish an authentic English text of this Act within 2 (two) years after the Act comes into force.

(2) In the event of conflict between the Bangla and the English text, the Bangla text shall prevail.

CHAPTER-VII REPEAL AND SAVINGS

16. **Repeal and savings.**—(1) The insurance Act, 1938 (Act IV of 1938), hereinafter referred to as the repealed Act, is hereby repealed.

(2) Notwithstanding such repeal,—

(a) every insurer or company or society registered under the repealed Act to carry on life insurance business or general insurance business shall be deemed to be an insurer registered under the provisions of this Act to carry on life insurance business and nonlife insurance business respectively until expiry of the registration certificate or expiry of 6 (six) months of the commencement of this Act whichever occurs earlier;

(b) every licensed agent and certified employer of agent under the repealed Act shall be deemed to be a registered agent and certified employer of agents;

(c) every insurance surveyor holding a valid survey certificate issued by the Chief Controller under the repealed Act shall be deemed to be an insurance surveyor under this Act until expiry thereof;

(d) every suit or any other legal proceeding instituted by or against the Chief Controller of Insurance under the repealed Act shall be deemed to be a suit or proceeding instituted by or against the Authority;

(e) any judgment, order or award given in favour of, or against, the Chief Controller of Insurance by any Court or tribunal or other body in any action, matter or proceeding under the repealed Act, if remains unsatisfied on the date of commencement of this Act, shall with effect from that date be deemed to be a judgment, order or award entered or made in favour or against the Authority and may be enforced and continued accordingly;

(f) premium rate approve under the repealed Act by the Chief Controller of Insurance shall remain effective until re-determined or modified or repealed; and

(g) any rule or regulation made under the repealed Act, subject to being consistent with the provisions of this Act, and until amended or rescinded, shall continue to remain in force and be deemed to have been framed under this Act.

(See section 21, 23, 118, and 119) Capital and Deposit

1. Minimum paid-up capital under section 21 :

(a) For life insurance business—

(i) In the case of companies incorporated in Bangladesh :—

(ii) In the case of companies

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incorporated outside
Bangladesh :—

(b) For non-life insurance business—

(i) In the case of companies
incorporated in Bangladesh :—

(ii) In the case of companies
incorporated outside

Bangladesh :—

At least Taka 3 (thirty) crore of which 6 (sixty)
percent shall be subscribed by the sponsors and the
remaining 4 (forty) percent shall remain open for
public subscription.

At least Taka 3 (thirty) crore which shall be
deposited in Bangladesh by transfer of fund from
outside Bangladesh.

At least Taka 4 (forty) crore of which 6 (sixty)
percent shall be subscribed by the sponsors and the
remaining 4 (forty) percent shall remain open for
public subscription.

At least Taka 4 (forty) crore which shall be
deposited in Bangladesh by transfer of fund from
outside Bangladesh.

2. Deposit required under section 23:

(a) **For Life insurance business:—** Taka 1 (one) crore and 5 (fifty)
lac. In the case of companies registered before the
commencement of this Act such required amount shall
be deposited within 3 (three) years from the
commencement of this Act.

(b) **For non-life insurance
business:—**

**3. Working capital of a Co-operative
Insurance Society under section 118:**

**4. Working capital of a Mutual Insurance
Company under section 118:**

**5. Deposit to be maintained by a Cooperative
Insurance Society under
section 119:**

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Taka 2 (two) crore and 5 (fifty) lac. In the case of companies registered before the commencement of this Act such required amount shall be deposited within 3 (three) years from the commencement of this Act.

Taka 2 (two) crore and 5 (fifty) lac. In the case a co-operative insurance society does not have such required capital, it will increase the required capital within 5 (five) years from commencement of this Act.

Taka 1 (one) crore and 5 (fifty) lac.

Taka 2 (two) crore and 5 (fifty) lac. Such required deposit must be deposited within 3(three) years from commencement of this Act.

6. Deposit to be maintained by a Mutual Insurance Company under section 119:

Taka 3 (thirty) lac.

(See section 16)

Basis and rule as to the valuation of the insurer’s capacity to pay liabilities or Liquidation:

The liabilities of an insurer in respect of current contracts effected in the course of life insurance business including annuity business, shall be calculated by the method and upon the basis to be determined by an actuary approved by court, and the actuary so approved shall, in determining as aforesaid, take into account the following matters, namely :—

- (a) the purpose for which such valuation is to be made;
 - (b) the rate of interest and the rates of mortality and sickness are to be used in valuation;
- and
- (c) any special directions which may be given by the Court.

It is to be noted that the liabilities of an insurer in respect of current policies other than life policies shall be such portion of the last premium paid as is proportionate to the unexpired portion of the policy in respect of which the premium was paid.