

SCHEDULES

SECOND SCHEDULE

Sections 2, 13, 21.

ADAPTATIONS, ETC., FOR SPECIAL CASES

PART I

MUTUAL ASSOCIATIONS

- 1 (1) Where, on the application of any association of persons whether incorporated or not, which, immediately before the twenty-ninth day of October, nineteen hundred and forty-five, was not carrying on in Great Britain insurance business of a class specified in section one of this Act, the Board of Trade are satisfied that the association—
- (a) is about to carry on long term business in Great Britain; and
 - (b) is so constituted that the whole of the divisible surplus or profits thereof must, whenever determined or declared, be apportioned or applied for the benefit of the association's policy holders, or such of them as are entitled in accordance with the terms of the policies or any instruments governing the constitution of the association to participate in the profits of the association;
- the Board may by order direct that the provisions of section two of this Act shall not apply to the association on condition that it carries on no business other than long term business and such other business (if any) as may be specified in the order.
- (2) Where an order is made under the foregoing sub-paragraph as respects any association, the association shall, before commencing to carry on long term business in Great Britain, deposit with the Accountant-General of the Supreme Court the sum of twenty thousand pounds, and shall keep that sum so deposited while it continues to carry on long term business in Great Britain.
- (3) Where the association is to be incorporated, the deposit may be made by the subscribers of the memorandum of association of the company, or any of them, in the name of the proposed company, and, upon the incorporation of the company, shall be deemed to have been made by, and to be part of the assets of, the company; and the registrar of companies shall not issue a certificate of incorporation of the company until the deposit has been made.
- (4) Where the association intends to carry on insurance business of more than one of the classes specified in subsection (1) of section one of this Act a separate sum of twenty thousand pounds shall be deposited and kept deposited under this paragraph as respects each such class of business.
- (5) The Accountant-General shall not accept a deposit under this paragraph except on a warrant of the Board of Trade.
- 2 Where, on the application of any association of persons, whether incorporated or not, the Board of Trade are satisfied that the association—
- (a) is carrying on or about to carry on fire insurance business; and

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- (b) is not carrying on or about to carry on that business except for the purpose of the mutual insurance of its members against damage caused to buildings or other property owned or occupied by them ;

the Board may by order direct that section two and section thirteen of this Act, in so far as they would have applied to the association apart from the order, shall not apply to the association on condition that it carries on no business other than fire insurance business and business incidental thereto.

- 3 (1) Where, on the application of any association of persons, whether incorporated or not, the Board of Trade are satisfied that the association—
- (a) is carrying on or about to carry on either employers' liability insurance business or marine, aviation and transit insurance business; and
- (b) is not carrying on or about to carry on that class of business except for the purpose of the mutual insurance of its members against risks incidental to their trade or industry;

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

- (2) Any order made under this paragraph in relation to an association carrying on or about to carry on employers' liability insurance business may be made so as to have effect as from the sixth day of March, nineteen hundred and forty-six.
- 4 Where a direction under this Part of this Schedule is given in respect of a company registered under the Companies Act, 1929, or the Companies Act, 1948, at any time after the fifth day of March, nineteen hundred and forty-six, being a company which has not commenced business, the statutory declaration required by section one hundred and nine of the said Act of 1948 to be delivered to the registrar of companies before the company commences business shall be accompanied by a copy, certified by the Board of Trade, of the order of the Board containing the direction, and that copy shall be filed by the registrar.
- 5 Any order made under this Part of this Schedule may be revoked by the Board of Trade—
- (a) on the application of the association to which it applies; or
- (b) if the Board cease to be satisfied of the matters on the ground of which the order was made ; or
- (c) if the Board are satisfied that the condition specified in the order has not been complied with.

PART II

INDUSTRIAL ASSURANCE COMPANIES

- 6 (1) In its application to industrial assurance business this Act shall have effect subject to the modifications specified in the following provisions of this paragraph.
- (2) Anything which under the provisions of this Act (other than section fourteen, subsection (2) of section fifteen and subsection (1) of section seventeen thereof) is, apart from this Part of this Schedule, required or authorised to be done to, by, or with

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the Board of Trade or the President of the Board of Trade shall or may be done to, by, or with the Industrial Assurance Commissioner (hereinafter in this Part of this Schedule referred to as "the Commissioner"):

Provided that, where the company transacts other business besides that of industrial assurance, nothing in this sub-paragraph shall affect the powers and duties of the Board of Trade or the President of the Board of Trade under this Act in relation to that other class of business ; and where any document required under the said provisions to be sent to the Board relates both to industrial assurance business and to other insurance business, the document shall be sent both to the Commissioner and to the Board.

- (3) Where any expenses of management, or interest from investments, or sums on account of depreciation of securities, are apportioned between the industrial assurance business and any other business carried on by the company the auditor shall include in his report a special report as to the propriety or otherwise of the apportionment.
- (4) A copy of every report of the auditor of the company shall be furnished to the Commissioner.
- (5) The Commissioner may refuse to issue a warrant for a deposit under paragraph 1 of this Schedule if he considers that it is inexpedient that the company should be authorised to carry on industrial assurance business, but in the case of such a refusal the company may appeal to the court, and the Commissioner shall be entitled to appear and be heard on any such appeal.
- (6) On a petition under section eleven of this Act the Commissioner shall be entitled to be heard, and on any such hearing the Commissioner may apply to the court to exercise its powers under paragraph (b) of subsection (2) of that section of directing that the requirements of that paragraph shall be dispensed with or modified.
- (7) On any such petition, any class of persons (including employees of any company concerned) who allege that they are adversely affected by the amalgamation or transfer shall be entitled to appear and to be heard.
- (8) The independent actuary referred to in paragraph (b) of subsection (2) of the said section eleven shall be appointed by the President of the Institute of Actuaries or by the Resident of the Faculty of Actuaries in Scotland on the application of the Commissioner and shall make his report to the Commissioner, by whom copies thereof shall be sent to each company concerned in the amalgamation or transfer, and each such company shall, unless the court otherwise directs, transmit copies thereof to the owner of each policy of the company in the manner provided by that section.
- (9) The said section eleven shall apply to any transfer from one company to another, howsoever effected, of the liabilities or of any of the liabilities arising in respect of industrial assurance business in like manner as if the transfer were a transfer of the industrial assurance business.

7 The provisions of this Act relating to industrial assurance business shall have effect notwithstanding anything in the memorandum or articles of association or rules or special Act of any insurance company carrying on such business:

Provided that nothing in this Act shall affect the liability of the industrial assurance fund or of the life assurance fund in the case of a company established before the

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first day of January, nineteen hundred and twenty-four, to the prejudice of persons interested in contracts entered into by the company before that date.

- 8 The Commissioner shall include in his annual report under section forty-four of the Industrial Assurance Act, 1923, a report of his proceedings under this Act, and that section shall have effect accordingly.

PART III

MISCELLANEOUS SPECIAL CASES

- 9 Regulations may provide that, in their application to an insurance company established in a country outside Great Britain, sections two and thirteen of this Act and this Schedule shall have effect subject to such adaptations of the references to paid up share capital and fifty thousand pounds as appear to the Board of Trade to be necessary having regard to the law relating to companies in force in that country or the currency of that country.

- 10 (1) Where, on the application of any insurance company carrying on general business, the Board of Trade are satisfied that it is guaranteed by another insurance company carrying on general business and satisfying the requirements for a guarantor set out in the following sub-paragraph, the Board may by order direct that, subject to such conditions as may be specified in the order, section thirteen of this Act shall not apply to the first-mentioned insurance company.

- (2) A guarantor shall be required for the purposes of this paragraph to be either—
- (a) a body corporate which has a paid up share capital of not less than fifty thousand pounds (as required by section two of this Act) and the value of whose assets exceeds the amount of its liabilities by the amount required by section thirteen of this Act; or
 - (b) an underwriter to whom this Act does not apply by virtue of subsection (6) of section one of this Act; or
 - (c) an insurance company as respects which, as being itself guaranteed by another insurance company, there is an order in force under this paragraph ;

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

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

the Board may by order direct that, subject to such conditions as may be specified in the order, the said section thirteen shall not apply to the company, or shall apply so as to require that the value of the company's assets shall exceed the amount of its liabilities by a less amount than the amount specified in that section.

- 12 Where, on the application of an insurance company carrying on general business of any class, not being a class in respect of which a separate fund is required to be

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maintained by section three of this Act, the Board of Trade are satisfied that, in the special circumstances of the company—

- (a) that business or any part thereof ought to be treated as if it were not business of that class but were either—
 - (i) general business of some other class, not being a class in respect of which a separate fund is required as aforesaid; or
 - (ii) business of a class not specified in section one of this Act; or
- (b) that business ought to be treated as if it were long term business;

the Board may by order direct that, subject to such conditions as may be specified in the order, it shall be so treated for the purposes of this Act:

Provided that an order directing that any business shall be treated as if it were business of a class not specified in section one of this Act shall, in relation to that direction, specify as a condition that the company carries on other business which is general business and which is not directed by that or any other order under this paragraph to be treated as if it were business of a class not so specified or as if it were long term business.

- 13 Regulations made under section twenty of this Act in respect of the withdrawal of deposits shall include provision for allowing any insurance company as respects which a direction is given under paragraph 10 or paragraph 11 of this Schedule to withdraw any deposit made by it.
- 14 Any order made under this Part of this Schedule may be revoked by the Board of Trade—
 - (a) if the Board cease to be satisfied of the matters on the ground of which the order was made; or
 - (b) If the Board are satisfied that any condition specified in the order has not been complied with.