



# Insurance Companies Amendment Act 1973

## 1973 CHAPTER 58

### *Authorisation of insurance companies*

#### **1 Margin of solvency and minimum paid up share capital required for authorisation**

- (1) The Secretary of State may by order amend section 62 of the Companies Act 1967 (hereafter referred to as " the Act of 1967 ") by substituting an amount specified in or to be determined in accordance with the order for any amount specified in or to be determined in accordance with subsections (1) to (4) of that section (margin of solvency and minimum paid up share capital required for authorisation of insurance company) whether as in force at the passing of this Act or as amended by a previous order under this subsection.
- (2) The power to make orders under subsection (1) above includes power to vary or revoke a previous order, and an order under that subsection may make different provision in relation to different cases or circumstances.
- (3) For the purposes of the said section 62 the value of any assets and the amount of any liabilities shall, subject to subsection (4) below, be determined in accordance with any applicable regulations made under section 32 below (hereafter referred to as " valuation regulations ")
- (4) For the purposes of the said section 62 the amount of the liabilities at any time of any long term business carried on by the company, society or body in question shall be taken to be—
  - (a) an amount equal to the total amount at that time standing to the credit of the fund or funds maintained by the company, society or body in respect of its long term business; or
  - (b) the amount of those liabilities at that time as determined in accordance with any applicable valuation regulations,

whichever is the greater.

**2 No authorisation for insurance company under control etc of unfit persons**

- (1) The Secretary of State shall not issue under section 61 of the Act of 1967 an authorisation with respect to an incorporated company if it appears to him that any director, controller or manager of the company is not a fit and proper person to be a director, controller or manager of the company, as the case may be.
- (2) In this section " controller", in relation to a company, means—
- (a) a managing director of the company or of a body corporate of which it is a subsidiary ;
  - (b) a chief executive of the company or of a body corporate, being an insurance company, of which it is a subsidiary;
  - (c) a person—
    - (i) in accordance with whose directions or instructions the directors of the company or of a body corporate of which it is a subsidiary (or any of them) are accustomed to act; or
    - (ii) who, either alone or with any associate or associates, is entitled to exercise, or control the exercise of, one third or more of the voting power at any general meeting of the company or of a body corporate of which it is a subsidiary.
- (3) In this section " manager", in relation to a company, means a person (other than a chief executive) employed by the company who, under the immediate authority of a director or chief executive of the company—
- (a) exercises managerial functions ; or
  - (b) is responsible for maintaining accounts or other records of the company, not being a person whose functions relate exclusively to business conducted from a place of business outside Great Britain.
- (4) Subject to subsection (6) below, in this section " chief executive", in relation to a company or a body corporate of which it is a subsidiary, means a person employed by the company or body who, either alone or jointly with one or more other persons, is responsible under the immediate authority of the directors for the conduct of the whole of the insurance business of that company or body.
- (5) In this section " associate", in relation to any person, means—
- (a) the wife or husband or minor son or daughter of that person;
  - (b) any company of which that person is a director;
  - (c) any person who is an employee or partner of that person;
  - (d) if that person is a company—
    - (i) any director of that company ;
    - (ii) any subsidiary of that company ;
    - (iii) any director or employee of any such subsidiary;
 and for the purposes of this subsection " son " includes stepson and adopted son, " daughter " includes step-daughter and adopted daughter and " minor ", in relation to Scotland, includes pupil.
- (6) In relation to a company incorporated outside Great Britain—
- (a) the reference in paragraph (a) of subsection (2) above to a managing director of the company includes a reference to a person who is a managing director of that company in respect of so much of its insurance business as is carried on within Great Britain; and

- (b) the reference in paragraph (b) of that subsection to a chief executive of the company includes a reference to a person employed by the company who, either alone or jointly with one or more other persons, is responsible (whether or not under the immediate authority of the directors) for the conduct of the whole of the insurance business carried on by the company within Great Britain but, if he is responsible also for the conduct of insurance business carried on by it elsewhere, only if there is no other person subordinate to him who is responsible for the conduct of the whole of the insurance business carried on by it within Great Britain.
- (7) The foregoing provisions of this section shall have effect in relation to a registered society or unincorporated body as they have effect in relation to an incorporated company.

#### *Accounts and statements*

### **3 Periodic actuarial investigation of company with long term business**

- (1) In subsection (1) of section 5 of the Insurance Companies Act 1958 (hereafter referred to as " the Act of 1958 ") references to an investigation into the financial condition of a company and to a valuation of its liabilities shall be construed as references to an investigation into its financial condition, and to a valuation of its liabilities, in respect of its long term business only; and in subsection (2) of that section the reference to a statement of a company's insurance business shall be construed as a reference to a statement of its long term business only.
- (2) The contents of any abstract or statement to be made under the said section 5 shall be such as may be prescribed.
- (3) For the purposes of any investigation to which the said section 5 applies the value of any assets and the amount of any liabilities shall be determined in accordance with any applicable valuation regulations.
- (4) Any such investigation shall be made by the person who for the time being is the company's actuary under subsection (5) below.
- (5) Every insurance company to which the Act of 1958 applies which carries on long term business shall—
  - (a) if it is carrying on such business at the passing of this Act, within one month of the passing of this Act, and
  - (b) if it subsequently begins to carry on such business, within one month of its beginning to do so,appoint an actuary as actuary to the company; and whenever an appointment under this subsection comes to an end the company shall as soon as practicable make a fresh appointment.
- (6) A company making an appointment under subsection (5) above shall within fourteen days serve on the Secretary of State a written notice stating that fact and the name and qualifications of the person appointed; and if an appointment under that subsection comes to an end the company shall within fourteen days serve on the Secretary of State a written notice stating that fact and the name of the person concerned.

#### **4 Deposit of documents with Secretary of State**

- (1) The documents to which subsection (1) of section 8 of the Act of 1958 applies (documents required to be deposited with the Secretary of State) shall include any report of the auditor of the company made in pursuance of section 9 of the Act of 1958 but one of the copies of any such report deposited under that subsection shall be signed by the auditor and not by the persons mentioned in that subsection.
- (2) The documents to which the said subsection (1) applies shall also include a statement of the names and connection with the company of any persons who, during the period to which the other documents deposited under that subsection relate—
  - (a) were authorised by the company to issue, or to the knowledge of the company have issued, any such invitation in relation to the company as is mentioned in subsection (1)(a) of section 43 below ; and
  - (b) were connected with the company as provided by regulations under that section ;and any such statement shall be deposited at the same time as the other documents required to be deposited under the said subsection (1).
- (3) The number of copies of any document required to be deposited under the said subsection (1) shall be five instead of four.
- (4) The persons by whom one copy of any such document except an auditor's report is required to be signed shall cease to include a manager of the company but—
  - (a) shall include a chief executive, if any, of the company;
  - (b) in the case of an abstract or statement under section 5 of the Act of 1958 shall include the actuary who made the investigation to which the abstract relates or by reference to which the statement was prepared;and where any such copy is signed by a chief executive of the company it need not also be signed by the secretary.
- (5) Subsection (4) of the said section 8 (which relieves a company from complying with section 127 of the Companies Act 1948 if it complies with certain other requirements) shall cease to have effect.
- (6) The documents mentioned in subsection (6) of the said section 8 (printed copies of certain documents to be made available by a company to its shareholders and policy holders) shall include any such report or statement as is mentioned in subsection (1) or (2) above and the said subsection (6) shall apply also to—
  - (a) a copy of any document supplied to the Secretary of State under subsection (2) of that section which relates to any of the documents last deposited under subsection (1) of that section;
  - (b) a copy of any report deposited with any of those documents under subsection (3) of that section.

#### **5 Periodic statements by company with prescribed class of business**

- (1) Every insurance company to which the Act of 1958 applies which carries on business of a class or description prescribed for the purposes of this section shall prepare, at such intervals and for such periods as may be prescribed, a statement of its business of that class or description.

- (2) The form and contents of any statement under this section shall be such as may be prescribed.
- (3) Regulations may, as respects such matters contained in a statement under this section as may be prescribed, require there to be given by such persons as may be prescribed and to be annexed to the statement certificates of such matters and in such form as may be prescribed.
- (4) Five copies of any statement made under this section (with any certificate annexed thereto in pursuance of subsection (3) above) shall be deposited by the company with the Secretary of State within such period as may be prescribed, and one of those copies shall be a copy signed by the persons required to sign copies of statements under section 7 of the Act of 1958 which are deposited under section 8 of that Act.
- (5) The whole or any part of any document deposited under subsection (4) above may be deposited by the Secretary of State with the registrar of companies and may be published by the Secretary of State in such ways as he thinks appropriate.

## **6 Statements of transactions of prescribed class or description**

- (1) Classes or descriptions of agreements or arrangements appearing to the Secretary of State as likely to be undesirable in the interests of policy holders may be prescribed for the purposes of this section; and every insurance company to which the Act of 1958 applies or subordinate company within the meaning of section 10 below of any such company which enters into an agreement or arrangement of a class or description so prescribed shall, within such period as may be prescribed, furnish the Secretary of State with a statement containing such particulars of that agreement or arrangement as may be prescribed.
- (2) Different classes or descriptions of agreements or arrangements may be prescribed for the purposes of this section in relation to companies of different classes or descriptions.
- (3) The whole or any part of any statement furnished to the Secretary of State under this section may be deposited by him with the registrar of companies and may be published by the Secretary of State in such ways as he thinks appropriate.

### *Assets and liabilities attributable to long term business*

## **7 Separation of assets and liabilities attributable to long term business**

- (1) Where an insurance company to which the Act of 1958 applies carries on long term business of either or both classes—
  - (a) the company shall maintain an account in respect of that class or, as the case may be, each of those classes of long term business ; and
  - (b) the receipts of that class or, as the case may be, of each of those classes of business shall be entered in the account maintained for that class and shall be carried to and form a separate insurance fund with an appropriate name.
- (2) An insurance company to which the Act of 1958 applies which carries on long term business of either or both classes shall maintain such books of account and other records as are necessary for identifying—

- (a) the assets representing the fund or funds maintained by the company under subsection (1)(b) above (but without necessarily distinguishing between the funds if more than one); and
  - (b) the liabilities attributable to that class or, as the case may be, each of those classes of long term business.
- (3) An insurance company to which the Act of 1958 applies which is carrying on long term business at the passing of this Act—
- (a) shall in accordance with regulations made for the purposes of this paragraph make arrangements, during the financial year of the company beginning next after the date on which the regulations are made, for identifying the assets and liabilities of the company as on the last day of that financial year which are attributable to its long term business ; and
  - (b) shall not be subject to the provisions of subsection (2) above until the day after the end of that financial year.
- (4) Regulations made for the purposes of subsection (3)(a) above may make provision for requiring companies to furnish the Secretary of State with certificates of such matters relating to the making of the arrangements, signed by such persons, as may be prescribed.

## **8 Application of assets of company with long term business**

- (1) Subject to subsections (2) and (3) and to section 30(3) below, the assets representing the fund or funds maintained by an insurance company in respect of its long term business shall be applicable only for the purposes of that business.
- (2) Where the value of the assets mentioned in subsection (1) above is shown, by an investigation to which section 5 of the Act of 1958 applies or made in pursuance of a requirement imposed under section 18 below, to exceed the amount of the liabilities attributable to the company's long term business the restriction imposed by that subsection shall not apply to so much of those assets as represents the excess.
- (3) Nothing in subsection (1) above shall preclude an insurance company from exchanging, at fair market value, assets representing a fund maintained by the company in respect of its long term business for other assets of the company.
- (4) Any mortgage or charge (including a charge imposed by a court on the application of a judgment creditor and, in Scotland, a charge imposed by way of diligence) shall be void to the extent to which it contravenes subsection (1) above.
- (5) For the avoidance of doubt it is hereby declared that money from a fund maintained by a company in respect of its long term business may not be used for the purposes of any other business of the company notwithstanding any arrangement for its subsequent repayment out of the receipts of that other business.
- (6) No insurance company to which the Act of 1958 applies, and no company of which any such insurance company is a subsidiary, shall declare a dividend at any time when the value of the assets representing the fund or funds maintained by the insurance company in respect of its long term business, as determined in accordance with any applicable valuation regulations, is less than the amount of the liabilities attributable to that business as so determined.

## 9 Allocations to policy holders

- (1) Where in the case of an insurance company to which the Act of 1958 applies—
- (a) there is an established surplus in which long term policy holders of any class are eligible to participate; and
  - (b) an amount has been allocated to policy holders of that class in respect of the last preceding established surplus in which policy holders of that class were eligible to participate,
- the company shall not apply assets representing any part of the surplus mentioned in paragraph (a) above for purposes other than those mentioned in section 8(1) above unless the company has allocated to policy holders of that class in respect of that surplus either an amount not less than the relevant minimum or, if the requirements of subsection (3) below have been complied with, the smaller amount specified in the notice served under paragraph (a) of that subsection.
- (2) Subject to subsections (6) and (7) below, the relevant minimum is an amount calculated by—
- (a) taking an amount which bears to the surplus mentioned in paragraph (a) of subsection (1) above the same proportion as the amount mentioned in paragraph (b) of that subsection bears to the surplus mentioned in that paragraph; and
  - (b) deducting an amount equal to one half of 1 per cent. of the amount of the surplus mentioned in the said paragraph (a).
- (3) The requirements of this subsection are that the company—
- (a) has served on the Secretary of State a written notice stating that it proposes to make an allocation of an amount (specifying it) which is smaller than the relevant minimum; and
  - (b) has published a statement approved by the Secretary of State in the London and Edinburgh Gazettes and in such other ways as he may have directed,
- and that a period of not less than fifty-six days has elapsed since the date, or the last date, on which the company has published the statement mentioned in paragraph (b) above as required by or under that paragraph.
- (4) In this section " established surplus" means an excess of assets representing the whole or a particular part of the fund or funds maintained by the company in respect of its long term business over the liabilities, or a particular part of the liabilities, of the company attributable to that business as shown by an investigation to which section 5 of the Act of 1958 applies or made in pursuance of a requirement imposed under section 18 below.
- (5) For the purposes of this section an amount is allocated to policy holders if, and only if—
- (a) bonus payments are made to them ; or
  - (b) reversionary bonuses are declared in their favour or a reduction is made in the premiums payable by them;
- and the amount of the allocation is, in a case within paragraph (a) above, the amount of the payments and, in a case within paragraph (b) above, the amount of the liabilities assumed by the company in consequence of the declaration or reduction.
- (6) For the purposes of this section the amount of any bonus payments made in anticipation of an established surplus shall be treated as an amount allocated in respect of that surplus; and for the purposes of subsection (2) above the amount of any surplus

shall be treated as increased by the amount of any such payments made in anticipation of it.

- (7) Subsection (1) above shall not authorise the application for purposes other than those mentioned in section 8(1) above of assets representing any part of the surplus mentioned in subsection (1)(a) above which the company has decided to carry forward unappropriated; and for the purposes of subsection (2) above the amount of any surplus shall be treated as reduced by any part thereof which the company has decided to carry forward as aforesaid.

## **10 Restriction on transactions with connected persons**

- (1) Neither an insurance company to which the Act of 1958 applies which carries on long term business nor a subordinate company of any such insurance company shall enter into a transaction to which this section applies—
- (a) at a time when the aggregate of the value of the assets and the amount of the liabilities attributable to such transactions already entered into by the insurance company and its subordinate companies exceeds the prescribed percentage of the total amount standing to the credit of the insurance company's long term funds; or
  - (b) at any other time when the aggregate of the value of those assets and the amount of those liabilities would exceed that percentage if the transaction were entered into.
- (2) This section applies to any transaction entered into by any such insurance company as is mentioned in subsection (1) above (whether or not itself a subordinate company of another company), being a transaction under which—
- (a) a person connected with the insurance company will owe it money; or
  - (b) the insurance company acquires shares in a company which is a person connected with it; or
  - (c) the insurance company undertakes a liability to meet an obligation of a person connected with it or to help such a person to meet an obligation,
- if the right to receive the money would constitute a long term asset of the insurance company, the acquisition is made out of its long term funds or the liability would fall to be discharged out of those funds, as the case may be.
- (3) Without prejudice to subsection (2) above, this section applies to any transaction entered into by a subordinate company of any such insurance company as is mentioned in subsection (1) above, being a transaction under which—
- (a) the insurance company or a person connected with it will owe money to the subordinate company (not being money owed by the insurance company which can be properly paid out of its long term funds); or
  - (b) the subordinate company acquires shares in the insurance company or in a company which is a person connected with the insurance company ; or
  - (c) the subordinate company undertakes a liability to meet an obligation of the insurance company or of a person connected with that company or to help the insurance company or such a person to meet an obligation;

but where the subordinate company is itself such an insurance company as is mentioned in subsection (1) above this section shall not by virtue of this subsection apply to any such transaction if the right to receive the money would constitute a long term asset of the subordinate company, the acquisition is made out of its long term funds or the liability would fall to be discharged out of those funds, as the case may be.



(4) In this section " subordinate company ", in relation to any such insurance company as is mentioned in subsection (1) above, means—

- (a) a company having equity share capital some or all of which is held by the insurance company as part of its long term assets where the share capital so held by the insurance company—
  - (i) amounts to more than half in nominal value of that share capital; and
  - (ii) confers on the insurance company the power to appoint or remove the holders of all or a majority of the directorships of the company whose share capital is held and more than one half of the voting power at any general meeting of that company;
- (b) a company having equity share capital some or all of which is held by another company which is itself a subordinate company of the insurance company where the share capital held by that other company—
  - (i) amounts to more than half in nominal value of that share capital; and
  - (ii) confers on that other company the power to appoint or remove the holders of all or a majority of the directorships of the company whose share capital is held and more than one half of the voting power at any general meeting of that company;

and for the purposes of this subsection share capital held for any person by a nominee shall (except where that person is concerned only in a fiduciary capacity) be treated as held by that person, and share capital held by a person in a fiduciary capacity or by way of security shall be treated as not held by that person.

(5) For the purposes of this section a person is connected with any such insurance company as is mentioned in subsection (1) above if that person is not a subordinate company of the insurance company but—

- (a) controls, or is a partner of a person who controls, the insurance company; or
- (b) being a company, is controlled by the insurance company or by another person who also controls the insurance company; or
- (c) is a director of the insurance company or the wife or husband or a minor son or daughter of such a director ;

and for the purposes of this subsection a person controls a company if he is a controller of it within the meaning of section 2(2)(c) above.

(6) For the purposes of this section the value of any assets and the amount of any liabilities shall be determined in accordance with any applicable valuation regulations.

(7) In this section—

" company " (except in the expression " insurance company ") and " equity share capital " have the meaning given in section 154(5) of the Companies Act 1948 ;

" liability " includes a contingent liability ;

" long term assets " and " long term funds ", in relation to an insurance company, mean respectively assets representing the fund or funds maintained by the company in respect of its long term business and that fund or those funds;

" the prescribed percentage " means 5 per cent. or such greater percentage as may from time to time be prescribed for the purposes of this section by regulations;

" share " has the same meaning as in the Companies Act 1948;

" son " includes step-son and adopted son, " daughter " includes step-daughter and adopted daughter, and " minor ", in relation to Scotland, includes pupil.

- (8) This section shall not be construed as making any transaction unenforceable as between the parties thereto or as otherwise making unenforceable any rights or liabilities in respect of property.

*Liabilities of unlimited amount*

**11 Avoidance of contracts for unlimited amounts**

A contract entered into after the coming into force of this section by an insurance company to which the Act of 1958 applies shall be void if—

- (a) it is a contract under which the company undertakes a liability the amount, or maximum amount, of which is uncertain at the time when the contract is entered into; and
- (b) it is not a contract of insurance or a contract of a class or description exempted by regulations from the operation of this section.

*Powers of intervention*

**12 Grounds on which powers are exercisable**

- (1) Any power conferred on the Secretary of State by sections 13 to 21 below shall be exercisable in relation to any insurance company to which the Act of 1958 applies and shall be exercisable on any of the following grounds—
- (a) that the Secretary of State considers the exercise of the power to be desirable for protecting policy holders or potential policy holders of the company against the risk that the company may be unable to meet its liabilities or, in the case of long term business, to fulfil the reasonable expectations of policy holders or potential policy holders;
  - (b) that it appears to him—
    - (i) that the company has failed to satisfy an obligation to which it is subject by virtue of the Act of 1958, Part II of the Act of 1967 or this Act; or
    - (ii) that a company of which it is a subsidiary has failed to satisfy an obligation to which it is subject by virtue of section 8(6) above ; or
    - (iii) that a subordinate company within the meaning of section 10 above of the company has failed to satisfy an obligation to which it is subject by virtue of that section or section 6 above;
  - (c) that it appears to him that the company has furnished misleading or inaccurate information to the Secretary of State under or for the purposes of any provision of the Act of 1958, Part II of the Act of 1967 or this Act;
  - (d) that he is not satisfied that adequate arrangements are in force or will be made for the reinsurance of risks against which persons are insured by the company in the course of carrying on business, being risks of a class in the case of which he considers that such arrangements are required;

- (e) that there exists a ground on which he would be prohibited, by section 2 above, from issuing an authorisation with respect to the company if it were applied for.
- (2) Any power mentioned in subsection (1) above shall also be exercisable in relation to any such company as is there mentioned—
- (a) if it is carrying on general business, on the ground that the Secretary of State is not satisfied that the company is not to be deemed (by virtue of section 13(1) of the Act of 1958) for the purposes of section 222 or 399 of the Companies Act 1948 to be unable to pay its debts ;
  - (b) if it is carrying on long term business, on the ground that he is not satisfied that the value of the assets representing the fund or funds maintained in respect of its long term business exceeds the amount of the liabilities of its long term business ;
- and for the purposes of paragraph (b) above the value of any assets and the amount of any liabilities shall be determined in accordance with any applicable valuation regulations.
- (3) The power conferred on the Secretary of State by subsections (2) to (4) of section 20 below shall also be exercisable on the ground that he considers the exercise of that power to be desirable in the general interests of persons who are or may become policy holders of insurance companies to which the Act of 1958 applies, and references in those subsections to a company include references to any body (whether incorporated or not) which appears to the Secretary of State to be an insurance company to which that Act applies.
- (4) Any power conferred on the Secretary of State by sections 13 to 18, 20(1) or 21 below shall also be exercisable, whether or not any of the grounds specified in subsections (1) to (3) above exists, in relation to—
- (a) any company, society or body with respect to which the Secretary of State has issued an authorisation under section 61 of the Act of 1967 ;
  - (b) any insurance company to which the Act of 1958 applies in the case of which a person has become a controller within the meaning of section 2(2)(c) above, if that power is exercised before the expiration of the period of five years beginning with the date on which the authorisation was issued or that person became such a controller, as the case may be; but no requirement imposed by virtue of this subsection shall continue in force after the expiration of the period of ten years beginning with that date.
- (5) The power conferred on the Secretary of State by section 21 below shall not be exercisable except in a case in which he considers that the purpose mentioned in that section cannot be appropriately achieved by the exercise of the powers conferred by sections 13 to 20 below or by the exercise of those powers alone.
- (6) The Secretary of State shall, when exercising any power conferred by sections 13 to 21 below, state the ground on which he is exercising it or, if he is exercising it by virtue of subsection (4) above, that he is so exercising it; but this subsection shall not apply where the Secretary of State has given notice under section 22 or 23 below of the proposed exercise of the power.
- (7) The grounds specified in subsections (1)(b) to (e), (2) and (3) above are without prejudice to the ground specified in subsection (1)(a) above.

**13 Restrictions on new business**

- (1) The Secretary of State may require a company—
  - (a) not to effect any contracts of insurance or contracts of insurance of a specified description;
  - (b) not to vary any contracts of insurance of a specified description, being contracts effected in the course of carrying on general business and in force when the requirement is imposed;
  - (c) not to vary in such a manner as to increase the liabilities of the company any contracts of insurance of a specified description, being contracts effected in the course of carrying on long term business and in force when the requirement is imposed.
- (2) A requirement under this section may apply to contracts of insurance whether or not the effecting of them falls within a class of insurance business which the company is for the time being authorised to carry on.

**14 Requirements about investments**

- (1) The Secretary of State may require a company—
  - (a) not to make investments of a specified class or description;
  - (b) to realise, before the expiration of a specified period (or such longer period as the Secretary of State may allow), the whole or a specified proportion of investments of a specified class or description held by the company when the requirement is imposed.
- (2) A requirement under this section may be framed so as to apply only to investments which are (or, if made, would be) assets representing a fund or funds maintained by the company in respect of its long term business or so as to apply only to other investments.

**15 Maintenance of assets in the United Kingdom**

- (1) The Secretary of State may require that assets of a company of a value which at any time is equal to the whole or a specified proportion of the amount of its domestic liabilities shall be maintained in the United Kingdom.
- (2) The Secretary of State may direct that for the purposes of any requirement under this section assets of a specified class or description shall or shall not be treated as assets maintained in the United Kingdom.
- (3) The Secretary of State may direct that for the purposes of any requirement under this section the domestic liabilities of a company, or such liabilities of any class or description, shall be taken to be the net liabilities after deducting any part of them which is reinsured.
- (4) For the purposes of this section the value of any assets and the amount of any liabilities shall be determined in accordance with any applicable valuation regulations.
- (5) A requirement imposed under this section may be framed so as to come into effect immediately after the day on which it is imposed or so as to come into effect after the expiration of a specified period (or such longer period as the Secretary of State may allow).

- (6) In this section any reference to a domestic liability is a reference to a liability arising under a contract made in the United Kingdom, or under a contract of insurance made elsewhere, being a contract of insurance in whose case, if only one premium is payable thereunder, that premium, or, if more than one premium is payable thereunder, any of those premiums, is payable or has been paid in the United Kingdom.
- (7) Subject to section 32(3) below, in computing the amount of any liabilities for the purposes of this section all contingent and prospective liabilities shall be taken into account but not liabilities in respect of share capital.

## **16 Custody of assets**

- (1) The Secretary of State may, in the case of a company on which a requirement has been imposed under section 15 above, impose an additional requirement that the whole or a specified proportion of the assets to which the requirement under that section applies shall be held by a person approved by him for the purposes of the requirement under this section as trustee for the company.
- (2) Section 15(5) above shall apply also to a requirement under this section.
- (3) Assets of a company held by a person as trustee for a company shall be taken to be held by him in compliance with a requirement imposed under this section if, and only if, they are assets in whose case the company has given him written notice that they are to be held by him in compliance with such a requirement or they are assets into which assets in whose case the company has given him such written notice have, by any transaction or series of transactions, been transposed by him on the instructions of the company.
- (4) No assets held by a person as trustee for a company in compliance with a requirement imposed under this section shall, so long as the requirement is in force, be released except with the consent of the Secretary of State.
- (5) If a mortgage or charge is created by a company at a time when there is in force a requirement imposed on the company by virtue of this section, being a mortgage or charge conferring a security on any assets which are held by a person as trustee for the company in compliance with the requirement, the mortgage or charge shall, to the extent that it confers such a security, be void against the liquidator and any creditor of the company.

## **17 Limitation of premium income**

- (1) The Secretary of State may require a company to take all such steps as are requisite to secure that the aggregate of the premiums—
  - (a) to be received by the company in consideration of the undertaking by it during a specified period of liabilities in the course of carrying on general business or any specified part of such business ; or
  - (b) to be received by it in a specified period in consideration of the undertaking by the company during that period of liabilities in the course of carrying on long term business or any specified part of such business,shall not exceed a specified amount.
- (2) A requirement under this section may apply either to the aggregate premiums to be received as mentioned in subsection (1) above or to the aggregate of those premiums

after deducting any premiums payable by the company for reinsuring the liabilities in consideration of which the first-mentioned premiums are receivable.

## **18 Actuarial investigations**

- (1) The Secretary of State may require a company which carries on long term business—
  - (a) to cause the person who for the time being is its actuary under section 3(5) above to make an investigation into its financial condition (including a valuation of its liabilities) in respect of that business, or any specified part of that business, as at a specified date;
  - (b) to cause an abstract of that person's report of the investigation to be made ; and
  - (c) to prepare a statement of its long term business or of that part thereof as at that date.
- (2) For the purposes of any investigation made in pursuance of a requirement under this section the value of any assets and the amount of any liabilities shall be determined in accordance with any applicable valuation regulations.
- (3) The form and contents of any abstract or statement made in pursuance of a requirement under this section shall be the same as for an abstract or statement made under section 5 of the Act of 1958.
- (4) Five copies of any abstract or statement made in pursuance of a requirement under this section shall be deposited by the company with the Secretary of State on or before such date as he may specify, and one of those copies shall be a copy signed by the persons required to sign copies of abstracts or statements made under the said section 5 which are deposited under section 8 of the Act of 1958.

## **19 Acceleration of information required by accounting provisions**

- (1) The Secretary of State may require any documents which under section 8 of the Act of 1958 are required to be deposited with him by a company within the period specified in that section to be deposited with him on or before a specified date before the end of that period, being a date not earlier than three months before the end of that period and not earlier than one month after the date on which the requirement is imposed.
- (2) The Secretary of State may require any statement which under section 5 above is required to be deposited with him by a company within a period prescribed under that section to be deposited with him on or before a specified date before the end of that period.

## **20 Power to obtain information and require production of documents**

- (1) The Secretary of State may require a company to furnish him, at specified times or intervals, with information about specified matters being, if he so requires, information verified in a specified manner.
- (2) The Secretary of State may—
  - (a) require a company to produce, at such time and place as he may specify, such books or papers as he may specify; or
  - (b) authorise any person, on producing (if required so to do) evidence of his authority, to require a company to produce to him forthwith any books or papers which that person may specify.

- (3) Where by virtue of subsection (2) above the Secretary of State or a person authorised by him has power to require the production of any books or papers from any company, the Secretary of State or that person shall have the like power to require production of those books or papers from any person who appears to him to be in possession of them; but where any person from whom such production is required claims a lien on books or papers produced by him, the production shall be without prejudice to the lien.
- (4) Any power conferred by or by virtue of subsections (2) and (3) above to require a company or other person to produce books or papers shall include power—
  - (a) if the books or papers are produced—
    - (i) to take copies of them or extracts from them; and
    - (ii) to require that person, or any other person who is a present or past director, controller or auditor of, or is or was at any time employed by, the company in question, to provide an explanation of any of them ;
  - (b) if the books or papers are not produced, to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.
- (5) A statement made by a person in compliance with a requirement imposed by virtue of this section may be used in evidence against him.
- (6) References in this section to books and papers shall be construed as if they were contained in the Companies Act 1948.

## **21 Residual power to impose requirements for protection of policy holders**

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

## **22 Notice of proposed exercise of power under s. 13**

- (1) Before exercising with respect to a company the power conferred by section 13 above the Secretary of State shall serve on the company a written notice stating—
  - (a) that the Secretary of State is considering exercising that power and the ground on which he is considering the exercise of the power; and
  - (b) that the company may, within the period of one month from the date of service of the notice, make written representations to the Secretary of State and, if the company so requests, oral representations to an officer of the Department of Trade and Industry appointed for the purpose by the Secretary of State.
- (2) Subsection (1) above shall not apply if the ground on which the Secretary of State proposes to exercise the power is that specified in section 12(1)(e) above unless the person whose fitness is in question is a controller of the company; and, if that person is a controller of the company, the Secretary of State, before exercising the power, shall also serve a written notice on that person containing the matters mentioned in subsection (1) above, taking references to the company as references to that person.

- (3) A notice under this section shall give particulars of the ground on which the Secretary of State is considering the exercise of the power except that no particulars need be given if the ground is that mentioned in section 12(2) above.
- (4) Where representations are made in accordance with this section the Secretary of State shall take them into consideration before exercising the power.
- (5) Any notice to be served on any person under this section may be served by post, and a letter containing the notice shall be deemed to be properly addressed if it is addressed to that person at his last known residence or last known place of business in Great Britain.
- (6) This section shall not apply in relation to the exercise of the power conferred by section 13 above where, by virtue of subsection (4) of section 12 above, it is exercised by the Secretary of State when issuing an authorisation; and in relation to any other exercise of that power by virtue of that subsection this section shall have effect as if subsection (1)(a) required the notice to state that the Secretary of State is considering exercising the power by virtue of the said subsection (4) and as if subsections (2) and (3) were omitted.

## **23 Notice of proposed exercise of powers on ground of unfitness of director or manager**

- (1) Before exercising with respect to a company any power or powers conferred by sections 13 to 21 above on the ground specified in section 12(1)(e) above where the person whose fitness is in question is a director, not being a controller, of the company or a manager of the company, the Secretary of State shall serve on that person a written notice stating—
  - (a) that the Secretary of State is considering exercising a power or powers conferred by those sections and the ground on which he is considering the exercise of the power or powers ; and
  - (b) that the person on whom the notice is served may, within the period of one month from the date of service of the notice, make written representations to the Secretary of State and, if that person so requests, oral representations to an officer of the Department of Trade and Industry appointed for the purpose by the Secretary of State.
- (2) Unless the Secretary of State, after considering any representations made in accordance with subsection (1) above by the person served with a notice under that subsection, decides not to exercise the power or powers in relation to which the notice was served, he shall before exercising the power or powers serve on the company a written notice—
  - (a) containing the matters mentioned in paragraphs (a) and (b) of that subsection, taking references to the person there mentioned as references to the company; and
  - (b) specifying the power or powers which he proposes to exercise and, if the power or one of them is that conferred by section 21 above specifying the manner of its proposed exercise.
- (3) A notice under this section shall give particulars of the ground on which the Secretary of State is considering the exercise of the power or powers in question.



- (4) Where representations are made in accordance with this section the Secretary of State shall take those representations into consideration before exercising the power or powers in question.
- (5) A requirement imposed on a company in the exercise of any power or powers to which this section applies may be framed so as to come into effect after the expiration of a specified period (or such longer period as the Secretary of State may allow) unless before the expiration of that period the person whose fitness is in question has ceased to be a director or manager of the company.
- (6) Section 22(5) above shall apply also to a notice under this section.

## **24 Rescission, variation and publication of requirements**

- (1) The Secretary of State may rescind a requirement imposed under sections 13 to 21 above if it appears to him that it is no longer necessary for the requirement to continue in force, and may from time to time vary any such requirement.
- (2) No requirement imposed by virtue of subsection (4) of section 12 above shall be varied after the expiration of the period of five years mentioned in that subsection except in a manner which relaxes that requirement.
- (3) A rescission under subsection (1) above of a requirement imposed under section 13 above may be limited so as to apply only to contracts of a specified description.
- (4) Notice of the imposition of a requirement under the said section 13 and of the rescission or variation of any such requirement shall be published by the Secretary of State in the London and Edinburgh Gazettes and in such other ways as appear to him expedient for notifying the public.
- (5) Where a requirement is imposed under section 16 above or any such requirement is rescinded or varied the Secretary of State shall forthwith serve—
  - (a) except where paragraph (b) below applies, on the registrar of companies;
  - (b) if the requirement is imposed on a registered society (other than one registered in Northern Ireland), on the appropriate registrar as defined by section 73(1) of the Industrial and Provident Societies Act 1965,a written notice stating that fact and, in the case of a notice of the imposition of a requirement, setting out the terms of the requirement, in the case of a notice of the rescission of a requirement, identifying the requirement and, in the case of a notice of a variation of a requirement, identifying the requirement and setting out the terms of the variation.
- (6) A notice served in pursuance of subsection (5) above on the registrar of companies shall be open to inspection, and a copy thereof may be procured by any person on payment of such fee as the Secretary of State may direct; and every document purporting to be certified by the registrar of companies to be a copy of such a notice shall be deemed to be a copy of that notice and shall be received in evidence as if it were the original notice unless some variation between it and the original is proved.
- (7) Section 71(1) of the said Act of 1965 (which empowers the Treasury to make regulations respecting, among other things, the inspection of documents kept by the appropriate registrar under that Act) shall have effect as if the reference to documents so kept included a reference to notices served in pursuance of subsection (5) above on the appropriate registrar.

**25 Power of Secretary of State to bring civil proceedings on behalf of insurance company**

- (1) Section 37(1) of the Act of 1967 (power of Secretary of State to bring civil proceedings on behalf of body corporate) shall have effect in relation to an insurance company to which the Act of 1958 applies (whether or not a body corporate) as if the reference to any information or document obtained under the provisions there mentioned included a reference to any information or document obtained under the Act of 1958, Part II of the Act of 1967 or this Act.
- (2) Where under a judgment given or decree pronounced in proceedings brought by virtue of the said section 37(1) on behalf of an insurance company a sum is recovered in respect of a loss of assets representing a fund or funds maintained by the company in respect of its long term business the court shall direct that the sum shall be treated for the purposes of this Act as assets of that fund or those funds and this Act shall have effect accordingly.

*Transfers of long term business***26 Sanction of court for transfers of long term business**

- (1) Where it is proposed to carry out a scheme under which the whole or part of the long term business carried on by an insurance company to which the Act of 1958 applies ("the transferor company") is to be transferred to another body whether incorporated or not ("the transferee company") the transferor company or transferee company may apply to the court, by petition, for an order sanctioning the scheme.
- (2) The court shall not entertain an application under this section unless the petition is accompanied by a report on the terms of the scheme by an independent actuary and the court is satisfied that the requirements of subsection (3) below have been complied with.
- (3) The said requirements are—
  - (a) that a notice has been published in the London and Edinburgh Gazettes and, except where the court has otherwise directed, in two national newspapers stating that the application is to be made and giving the address of the offices at which, and the period for which, copies of the documents mentioned in paragraph (d) below will be available as required by that paragraph;
  - (b) except where the court has otherwise directed, that a statement—
    - (i) setting out the terms of the scheme ; and
    - (ii) containing a summary of the report mentioned in subsection (2) above sufficient to indicate the opinion of the actuary on the likely effects of the scheme on the long term policy holders of the companies concerned,
 has been sent to each of those policy holders and to every member of those companies ;
  - (c) that a copy of the petition, of the report mentioned in subsection (2) above and of any statement sent out under paragraph (b) above has been served on the Secretary of State and that a period of not less than twenty-one days has elapsed since the date of service; and
  - (d) that copies of the petition and of the report mentioned in subsection (2) above have been open to inspection at offices in Great Britain of the companies

concerned for a period of not less than twenty-one days beginning with the date on which the notice mentioned in paragraph (a) above was published as required by that paragraph.

- (4) Each of the companies concerned shall, on payment of such fee as may be prescribed by rules of court, furnish a copy of the petition and of the report mentioned in subsection (2) above to any person who asks for one at any time before an order sanctioning the scheme is made on the petition.
- (5) On any petition under this section—
  - (a) the Secretary of State, and
  - (b) any person (including any employee of the transferor company or the transferee company) who alleges that he would be adversely affected by the carrying out of the scheme,shall be entitled to be heard.
- (6) The court shall not make an order sanctioning the scheme unless it is satisfied that the transferee company is, or immediately after the making of the order will be, authorised under section 61 of the Act of 1967 to carry on long term business of the class or classes to be transferred under the scheme.
- (7) No such transfer as is mentioned in subsection (1) above shall be carried out unless the scheme relating to the transfer has been sanctioned by the court in accordance with this section ; and no order shall be made under section 206 or 208 of the Companies Act 1948 (compromises and arrangements between a company and its creditors or members) in respect of so much of any compromise or arrangement as involves any such transfer.
- (8) In this section "the court" means the High Court of Justice in England except that it means—
  - (a) the Court of Session if the transferor company and the transferee company are registered or have their head offices in Scotland ; and
  - (b) either the High Court of Justice in England or the Court of Session if one only of those companies is registered or has its head office in Scotland.
- (9) This section does not apply to any scheme if the transferor company and transferee company are registered or have their head offices in Northern Ireland; and subsection (7) above does not apply if either of those companies is registered or has its head office in Northern Ireland and the scheme has been sanctioned by the High Court of Justice in Northern Ireland.
- (10) Subsection (7) above does not apply to a transfer of long term business carried on elsewhere than in Great Britain but, save as aforesaid, this section applies whether or not the long term business is carried on in Great Britain and whether or not the scheme involves the transfer of any other part of the transferor company's undertaking or the amalgamation of that company with one or more other companies.

## **27 Provisions supplementary to s. 26**

- (1) Where the court makes an order under section 26 above sanctioning a scheme the court may, either by that order or by any subsequent order, make provision for all or any of the following matters—
  - (a) the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of the transferor company ;

- (b) the allotting or appropriation by the transferee company of any shares, debentures, policies or other like interests in that company which under the scheme are to be allotted or appropriated by that company to or for any person;
  - (c) the continuation by or against the transferee company of any legal proceedings pending by or against the transferor company;
  - (d) the dissolution, without winding up, of the transferor company;
  - (e) such incidental, consequential and supplementary matters as are necessary to secure that the scheme shall be fully and effectively carried out.
- (2) Where any such order provides for the transfer of property or liabilities, that property shall, by virtue of the order, be transferred to and vest in, and those liabilities shall, by virtue of the order, be transferred to and become the liabilities of, the transferee company, and in the case of any property, if the order so directs, freed from any mortgage or charge which is by virtue of the scheme to cease to have effect.
- (3) For the purposes of any provision requiring the delivery of an instrument of transfer as a condition for the registration of a transfer of any property (including in particular section 75 of the Companies Act 1948 and section 56(4) of the Finance Act 1946) an order which by virtue of this section operates to transfer any property shall be treated as an instrument of transfer.
- (4) In this section " property " includes property, rights and powers of every description, " liabilities " includes duties and " shares " and " debentures " have the same meaning as in the Companies Act 1948.
- (5) Where a scheme is sanctioned by an order of the court under section 26 above the transferee company shall, within ten days from the date on which the order is made or such longer period as the Secretary of State may allow, deposit two office copies of the order with the Secretary of State.

#### *Insolvency and winding up*

### **28 Margin of solvency for general business**

- (1) The Secretary of State may by order amend subsections (1) and (2) of section 13 of the Act of 1958 (margin of solvency for general business) by substituting for any amount specified in or to be determined in accordance with those subsections (whether as in force at the passing of this Act or as amended by a previous order under this subsection) an amount specified in or to be determined in accordance with the order.
- (2) No amendment of the said section 13 made by an order under subsection (1) above shall come into force before the expiration of the period of twelve months beginning with the date on which the order is made.
- (3) The power to make orders under subsection (1) above includes power to vary or revoke a previous order, and an order under that subsection may make different provision in relation to different cases or circumstances.
- (4) For the purposes of subsection (1) of the said section 13 the value of any assets and the amount of any liabilities shall, subject to subsection (3) of that section and to subsection (5) below, be determined in accordance with any applicable valuation regulations.

- (5) In the case of an insurance company which carries on long term business as well as general business the amount of the liabilities of its long term business at any time shall, for the purposes of subsection (1) of the said section 13, be taken to be—
- (a) an amount equal to the total amount at that time standing to the credit of the fund or funds maintained by the company in respect of its long term business; or
  - (b) the amount of those liabilities at that time as determined in accordance with any applicable valuation regulations,
- whichever is the greater.
- (6) In subsection (1) of the said section 13 for the words " for the purposes of section two hundred and twenty-two of the Companies Act 1948 " there shall be substituted the words " for the purposes of sections 222 and 399 of the Companies Act 1948 ".

## **29 Winding up of insurance companies: general provisions**

- (1) If, in the case of an insurance company to which the Act of 1958 applies, being a company which may be wound up by the court under the provisions of the Companies Act 1948, it appears to the Secretary of State that it is expedient in the public interest that the company should be wound up, he may, unless the company is already being wound up by the court, present a petition for it to be so wound up if the court thinks it just and equitable for it to be so wound up.
- (2) Subsection (1) of section 15 of the Act of 1958 (power to wind up under Companies Act 1948 any insurance company to which the Act of 1958 applies) shall apply to any such company which is registered or has its head office in Northern Ireland; and in subsection (2) of that section (Secretary of State's petition for winding up an insurance company)—
- (a) in paragraph (a) (company which is unable to pay its debts within the meaning of sections 222 and 223 of Companies Act 1948) for the words " sections two hundred and twenty-two and two hundred and twenty-three of the said Act of 1948" there shall be substituted the words " sections 222 and 223 or section 399 of the said Act of 1948 ";
  - (b) in paragraph (b) (company which has failed to satisfy an obligation to which it is subject by virtue of certain provisions of the Act of 1958) for the words from " to which it is subject" to the end of the paragraph there shall be substituted the words " to which it is subject by virtue of this Act, Part II of the Companies Act 1967 or the Insurance Companies Amendment Act 1973 ".
- (3) Where a petition for the winding up of an insurance company to which the Act of 1958 applies is presented by a person other than the Secretary of State a copy of the petition shall be served on the Secretary of State and the Secretary of State shall be entitled to be heard on the petition.
- (4) Rules may be made under section 365 of the said Act of 1948 (general rules about winding up) for determining the amount of the liabilities of an insurance company to policy holders of any class or description for the purpose of proof in a winding up and generally for carrying into effect the provisions of the Act of 1958, Part II of the Act of 1967 and this Act with respect to the winding up of insurance companies.

**30 Winding up of insurance companies with long term business**

- (1) No insurance company to which the Act of 1958 applies which is an unincorporated body and carries on long term business shall be made the subject of bankruptcy proceedings or, in Scotland, sequestration proceedings.
- (2) No insurance company to which the Act of 1958 applies which carries on long term business shall be wound up voluntarily.
- (3) Section 8(1) above shall not have effect in relation to the winding up of a company to which section 7(1) above applies but, subject to subsection (4) below and to rules made by virtue of subsection (5) below, in any such winding up—
  - (a) the assets representing the fund or funds maintained by the company in respect of its long term business shall be available only for meeting the liabilities of the company attributable to that business;
  - (b) the other assets of the company shall be available only for meeting the liabilities of the company attributable to its other business.
- (4) Where the value of the assets mentioned in either paragraph of subsection (3) above exceeds the amount of the liabilities mentioned in that paragraph the restriction imposed by that subsection shall not apply to so much of those assets as represents the excess.
- (5) Without prejudice to the generality of section 29(4) above, rules under section 365 of the Companies Act 1948 may make provision for all or any of the following matters—
  - (a) the identification of the assets and liabilities falling within either paragraph of subsection (3) above;
  - (b) the apportionment between the assets falling within paragraphs (a) and (b) of that subsection of the costs, charges and expenses of the winding up and of any debts of the company having priority under section 319 of the said Act of 1948 ;
  - (c) the determination of the amount of liabilities of any description falling within either paragraph of that subsection for the purpose of establishing whether or not there is any such excess in respect of that paragraph as is mentioned in subsection (4) above ;
  - (d) the application of assets within paragraph (a) of subsection (3) above for meeting the liabilities within that paragraph;
  - (e) the application of assets representing any such excess as is mentioned in subsection (4) above.
- (6) In relation to the assets falling within either paragraph of subsection (3) above the creditors mentioned in subsections (1) and (2) of section 246 of the said Act of 1948 shall be only those who are creditors in respect of liabilities falling within that paragraph ; and any general meetings of creditors summoned for the purposes of that section shall accordingly be separate general meetings of the creditors in respect of the liabilities falling within each paragraph.
- (7) Where under section 333(1) of the said Act of 1948 (defalcations of directors etc. disclosed in course of winding up) a court orders any money or property to be repaid or restored to a company or any sum to be contributed to its assets then, if and so far as the wrongful act which is the reason for the making of the order related to assets representing a fund or funds maintained by the company in respect of its long term business, the court shall include in the order a direction that the money, property

or contribution shall be treated for the purposes of this Act as assets of that fund or those funds and this Act shall have effect accordingly.

### **31 Continuation of long term business of insurance company in liquidation**

- (1) This section has effect in relation to the winding up of an insurance company to which (the Act of 1958 applies, being a company carrying on long term business.
- (2) The liquidator shall, unless the court otherwise orders, carry on the long term business of the company with a view to its being transferred as a going concern to another insurance company, whether an existing company or a company formed for that purpose; and, in carrying on that business as aforesaid, the liquidator may agree to the variation of any contracts of insurance in existence when the winding up order is made but shall not effect any new contracts of insurance.
- (3) If the liquidator is satisfied that the interests of the creditors in respect of liabilities of the company attributable to its long term business require the appointment of a special manager of the company's long term business, he may apply to the court, and the court may on such application appoint a special manager of that business to act during such time as the court may direct, with such powers, including any of the powers of a receiver or manager, as may be entrusted to him by the court.
- (4) Subsections (2) and (3) of section 263 of the Companies Act 1948 (special manager to give security and receive remuneration) shall apply to a special manager appointed under subsection (3) above as they apply to a special manager appointed under that section.
- (5) The court may, if it thinks fit and subject to such conditions (if any) as it may determine, reduce the amount of the contracts made by the company in the course of carrying on its long term business.
- (6) The court may, on the application of the liquidator, a special manager appointed under subsection (3) above or the Secretary of State, appoint an independent actuary to investigate the long term business of the company and to report to the liquidator, the special manager or the Secretary of State, as the case may be, on the desirability or otherwise of that business being continued and on any reduction in the contracts made in the course of carrying on that business that may be necessary for its successful continuation.
- (7) Notwithstanding section 245(1) of the Companies Act 1948 (which requires a liquidator to obtain the sanction of the court or committee of inspection for the bringing of legal proceedings in the name of and on behalf of the company) the liquidator may without any such sanction make an application in the name of and on behalf of the company under section 26 above.
- (8) In this section " the court" means the court having jurisdiction to wind up the company.

#### *Valuation regulations*

### **32 Power to make valuation regulations**

- (1) Regulations may be made with respect to the determination of the value of assets and the amount of liabilities in any case in which the value or amount is required by any provision of this Act to be determined in accordance with valuation regulations.

- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may provide that, for any specified purpose, assets or liabilities of any specified class or description shall be left out of account or shall be taken into account only to a specified extent.
- (3) Paragraph (a) of section 13(2) of the Act of 1958 and that paragraph as applied by subsection (4) of section 62 of the Act of 1967 (liabilities to be taken into account for purposes of those sections) and section 15(7) above shall have effect subject to any applicable valuation regulations made by virtue of subsection (2) above.
- (4) Regulations under this section may make different provision in relation to different cases or circumstances.

*Changes of director, controller or manager*

**33 Approval of proposed managing director or chief executive of insurance company**

- (1) No insurance company to which the Act of 1958 applies shall appoint a person as managing director or chief executive of the company unless—
  - (a) the company has served on the Secretary of State a written notice stating that it proposes to appoint that person to that position and containing such particulars as may be prescribed ; and
  - (b) either the Secretary of State has, before the expiration of the period of three months beginning with the date of service of that notice, notified the company in writing that there is no objection to that person being appointed to that position or that period has elapsed without the Secretary of State having served on the company a written notice of objection.
- (2) A notice served by a company under subsection (1)(a) above shall contain a statement signed by the person proposed to be appointed that it is served with his knowledge and consent.
- (3) The Secretary of State may serve a notice of objection under subsection (1) above on the ground that it appears to him that the person proposed to be appointed is not a fit and proper person to be appointed to the position in question, but before serving such a notice the Secretary of State shall serve on the company and on that person a preliminary written notice stating—
  - (a) that the Secretary of State is considering the service on the company of a notice of objection on that ground ; and
  - (b) that the company and that person may, within the period of one month from the date of service of the preliminary notice, make written representations to the Secretary of State and, if the company or that person so requests, oral representations to an officer of the Department of Trade and Industry appointed for the purpose by the Secretary of State.
- (4) The Secretary of State shall not be obliged to disclose to the company or to the person proposed to be appointed any particulars of the ground on which he is considering the service on the company of a notice of objection.
- (5) Where representations are made in accordance with this section the Secretary of State shall take them into consideration before serving the notice of objection.



- (6) Section 22(5) above shall apply also to a notice served under this section by the Secretary of State.

**34 Approval of person proposing to become controller of insurance company where s. 33 does not apply**

- (1) No person shall become a controller of an insurance company to which the Act of 1958 applies, otherwise than by virtue of an appointment in relation to which section 33 above has effect, unless—
- (a) he has served on the Secretary of State a written notice stating that he intends to become a controller of that company and containing such particulars as may be prescribed; and
  - (b) either the Secretary of State has, before the expiration of the period of three months beginning with the date of service of that notice, notified him in writing that there is no objection to his becoming a controller of the company or that period has elapsed without the Secretary of State having served on him a written notice of objection.
- (2) The Secretary of State may serve a notice of objection under subsection (1) above on the ground that it appears to him that the person concerned is not a fit and proper person to be a controller of the company, but before serving such a notice the Secretary of State shall serve on that person a preliminary written notice stating—
- (a) that the Secretary of State is considering the service on him of a notice of objection on that ground; and
  - (b) that that person may, within the period of one month from the date of service of the preliminary notice, make written representations to the Secretary of State and, if that person so requests, oral representations to an officer of the Department of Trade and Industry appointed for the purpose by the Secretary of State.
- (3) The Secretary of State shall not be obliged to disclose to any person any particulars of the ground on which he is considering the service on him of a notice of objection.
- (4) Where representations are made in accordance with this section the Secretary of State shall take them into consideration before serving the notice of objection.
- (5) Section 22(5) above shall apply also to a notice served under this section by the Secretary of State.

**35 Duty to notify change of director, controller or manager**

- (1) A person who becomes or ceases to be a controller of an insurance company to which the Act of 1958 applies shall, before the expiration of the period of seven days beginning with the day next following that on which he does so, notify the insurance company in writing of that fact and of such other matters as may be prescribed; and a person who becomes a director or manager of any such insurance company shall, before the expiration of the period of seven days beginning with the day next following that on which he does so, notify the insurance company in writing of such matters as may be prescribed.
- (2) An insurance company to which the Act of 1958 applies shall give written notice to the Secretary of State of the fact that any person has become or ceased to be a director, controller or manager of the company and of any matter of which any such person is

required to notify the company under subsection (1) above ; and that notice shall be given before the expiration of the period of fourteen days beginning with the day next following that on which that fact or matter comes to the company's knowledge.

*Miscellaneous*

**36 Documents deposited with Secretary of State**

- (1) The Secretary of State shall deposit with the registrar of companies one copy of—
  - (a) any document deposited with the Secretary of State under section 8 of the Act of 1958, including any document obtained under subsection (2) of that section ;
  - (b) any document deposited with him under section 18(4) or 27(5) above.
- (2) Subject to subsection (3) below, any document deposited under this section or section 5(5) or 6(3) above with the registrar of companies shall be open to inspection and copies thereof may be procured by any person on payment of such fees as the Secretary of State may direct.
- (3) Subsection (2) above shall not apply to any document if it is a copy of a document in respect of which a dispensation has been granted under section 76(1) of the Act of 1967 (exemption from obligation to supply certain information to shareholders and policy holders).
- (4) Every document deposited with the Secretary of State under the Act of 1958 or this Act and certified by the registrar of companies to be a document so deposited shall be deemed to be a document so deposited ; and every document purporting to be certified by the registrar of companies to be a copy of a document so deposited shall be deemed to be a copy of that document and shall be received in evidence as if it were the original document unless some variation between it and the original is proved.

**37 Treatment of certain business as or as not being ordinary long-term insurance business**

- (1) The Secretary of State may, on the application or with the consent of an insurance company to which the Act of 1958 applies, by order direct that for the purposes of the application to the company of all or any of the provisions to which this section applies—
  - (a) business of a kind specified in the order, not being ordinary long-term insurance business, shall be treated as being such business; or
  - (b) ordinary long-term insurance business of a kind so specified shall be treated as not being such business.
- (2) An order under subsection (1)(b) above may direct that the business specified in the order shall be treated as falling within a specified class of insurance business relevant for the purposes of Part II of the Act of 1967.
- (3) An order under this section may be subject to conditions and may be varied or revoked at any time by the Secretary of State.
- (4) The provisions to which this section applies are sections 3, 5, 7 to 10, 18, 28(4) to (6), 30 and 31 above and the following provisions of the Act of 1958, that is to say, section 4 (annual accounts and balance sheets), section 5 (periodic investigation

of certain companies by actuary), section 7 (company's annual statement of certain classes of business) and section 13 (margin of solvency for general business).

### **38 Power to modify Acts in relation to particular companies**

- (1) The Secretary of State may, on the application or with the consent of an insurance company to which the Act of 1958 applies, by order direct that all or any of the provisions to which this section applies shall not apply to the company or shall apply to it with such modifications as may be specified in the order.
- (2) An order under this section may be subject to conditions.
- (3) An order under this section may be revoked at any time by the Secretary of State ; and the Secretary of State may at any time vary any such order on the application or with the consent of the company to which it applies.
- (4) The provisions to which this section applies are sections 3 to 11 and 28(4) to (6) above, sections 4, 5, 7, 8, 9 and 13 of the Act of 1958, the provisions of regulations made for the purposes of any of those sections and the provisions of any valuation regulations.
- (5) In relation to section 10 above, subsection (1) above shall have effect as if the reference to an insurance company to which the Act of 1958 applies included a reference to any subordinate company within the meaning of that section of any such insurance company.

### **39 Application of Acts in relation to industrial assurance business**

- (1) The power to make regulations for the purposes of section 3(2) above, section 4 of the Act of 1958 so far as it relates to revenue accounts, section 5 of that Act so far as it relates to the form of abstracts and statements and section 7 of that Act shall, in relation to industrial assurance business, be exercisable by the Industrial Assurance Commissioner.
- (2) Section 8 of the Act of 1958 shall have effect in relation to any document which relates to industrial assurance business as if references in that section to the Secretary of State included references to the Commissioner.
- (3) Where any document required to be deposited by a company under subsection (4) of section 18 above relates to industrial assurance business the company shall also, within the time required under that subsection, deposit one copy of that document with the Commissioner.
- (4) Where any business proposed to be transferred as mentioned in section 26 above is or includes industrial assurance business that section and section 27(5) above shall have effect as if references to the Secretary of State included references to the Commissioner.
- (5) The power to make orders under section 38 above as respects section 3 above, section 4 of the Act of 1958 so far as it relates to revenue accounts, sections 5, 7 and 8 of that Act and the provisions of regulations made for the purposes of any of those sections (other than valuation regulations) shall, in relation to industrial assurance business, be exercisable by the Commissioner.

**40 Application of Acts to organisations of workers or employers**

In section 1(5A)(a) of the Act of 1958 and section 60(1)(e) of the Act of 1967 (which respectively exempt from the Act of 1958 and the authorisation requirements of the Act of 1967 a trade union or an employers' association within the meaning of the Industrial Relations Act 1971 whose insurance business is limited to the provision of certain benefits for its members) for the words " a trade union or an employers' association within the meaning of the Industrial Relations Act 1971 " there shall be substituted the words " an organisation of workers within the meaning of the Industrial Relations Act 1971 (including an organisation for the time being entered in the special register maintained under section 84 of that Act) or an organisation of employers within the meaning of that Act ".

**41 Insurance advertisements**

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

**42 Misleading statements etc. inducing person to enter into contract of insurance**

Any person who, by any statement, promise or forecast which he knows to be misleading, false or deceptive, or by any dishonest concealment of material facts, or by the reckless making (dishonestly or otherwise) of any statement, promise or forecast which is misleading, false or deceptive, induces or attempts to induce another person

to enter into or offer to enter into any contract of insurance with an insurance company shall be guilty of an offence.

#### **43 Intermediaries in insurance transactions**

- (1) Regulations may be made for requiring any person who—
  - (a) invites another person to make an offer or proposal or to take any other step with a view to entering into a contract of insurance with an insurance company; and
  - (b) is connected with that company as provided in the regulations, to give the prescribed information with respect to his connection with the company to the person to whom the invitation is issued.
- (2) Regulations may be made for requiring any person who, in the course of carrying on any business or profession, issues any such invitation as is mentioned in subsection (1) (a) above in relation to an insurance company which is not an authorised insurer in respect of the contract in question to inform the person to whom the invitation is issued that the company is not such an insurer as aforesaid.

In this subsection " authorised insurer ", in relation to a contract of any description, means a person entitled to carry on in Great Britain insurance business of a class comprising the effecting of contracts of that description.

- (3) Regulations under this section may make different provision in relation to different cases or circumstances.
- (4) Any person who contravenes regulations under this section shall be guilty of an offence.

#### **44 Statutory notice by insurer in relation to long term policy**

- (1) Subject to subsection (5) below, no insurance company to which the Act of 1958 applies and no member of Lloyd's or of any other association of underwriters approved for the purposes of Part II of the Act of 1967 by the Secretary of State shall enter into a contract of a kind mentioned in section 59(6) of the Act of 1967 (long term insurance contracts) unless that company or member (" the insurer ") either—
  - (a) has sent by post to the other party to the contract a statutory notice in relation to that contract; or
  - (b) does so at the time when the contract is entered into.
- (2) For the purposes of this section a statutory notice is a notice which—
  - (a) contains such matters (and no others) and is in such form as may be prescribed for the purposes of this section and complies with such requirements (whether as to type, size, colour or disposition of lettering, quality or colour of paper, or otherwise) as may be prescribed for securing that the notice is easily legible ; and
  - (b) has annexed to it a form of notice of cancellation of the prescribed description for use under section 45 below.
- (3) Regulations made for the purposes of subsection (2) above may make different provision—
  - (a) in relation to contracts of different classes or descriptions ;

(b) in relation to cases where the statutory notice is sent before the contract is entered into and in relation to other cases;

and the Secretary of State may, on the application of any insurer, alter the requirements of any regulations made for the purposes of subsection (2)(a) above so as to adapt those requirements to the circumstances of that insurer or to any particular kind of contract proposed to be entered into by that insurer.

- (4) Any insurer who contravenes this section shall be guilty of an offence but, without prejudice to section 45(2) below, no contract shall be invalidated by reason of the fact that the insurer has contravened this section in relation to that contract.
- (5) Subsection (1) of this section does not apply to any contract the effecting of which by the insurer constitutes the carrying on of industrial assurance business; and regulations may exempt from that subsection contracts of any other class or description.
- (6) In sections 45 and 46 below "insurer" and "statutory notice" have the same meaning as in this section.

#### **45 Right to withdraw from transaction in respect of long term policy**

- (1) A person who has received a statutory notice from an insurer in relation to any contract to which section 44(1) above applies may before the expiration of—
- (a) the tenth day after that on which he received the notice ; or
  - (b) the earliest day on which he knows both that the contract has been entered into and that the first or only premium has been paid,
- whichever is the later, serve a notice of cancellation on the insurer.
- (2) A person to whom an insurer ought to have, but has not, sent a statutory notice in relation to any such contract as aforesaid may serve a notice of cancellation on the insurer ; but if the insurer sends him a statutory notice in relation to that contract before he has served a notice of cancellation under this subsection, then, without prejudice to his right to serve a notice of cancellation under subsection (1) above, his right to do so under this subsection shall cease.
- (3) A notice of cancellation may, but need not, be in the form annexed to the statutory notice and shall have effect if, however expressed, it indicates the intention of the person serving it to withdraw from the transaction in relation to which the statutory notice was or ought to have been sent.
- (4) Where a person serves a notice of cancellation, then—
- (a) if at the time when the notice is served the contract has been entered into, the notice shall operate so as to rescind the contract;
  - (b) in any other case, the service of the notice shall operate as a withdrawal of any offer to enter into the contract which is contained in, or implied by, any proposal made to the insurer by the person serving the notice of cancellation and as notice to the insurer that any such offer is withdrawn.
- (5) Where a notice of cancellation operates to rescind a contract or as the withdrawal of an offer to enter into a contract—
- (a) any sum which the person serving the notice has paid in connection with the contract (whether by way of premium or otherwise and whether to the insurer or to a person who is the agent of the insurer for the purpose of receiving that sum) shall be recoverable from the insurer by the person serving the notice ;

- (b) any sum which the insurer has paid under the contract shall be recoverable by him from the person serving the notice.
- (6) Any sum recoverable under subsection (5) above shall be recoverable as a simple contract debt in any court of competent jurisdiction.

#### **46 Service of notice of cancellation**

- (1) For the purposes of section 45 above a notice of cancellation—
  - (a) shall be deemed to be served on the insurer if it is sent by post addressed to any person specified in the statutory notice as a person to whom a notice of cancellation may be sent, and is addressed to that person at an address so specified ; and
  - (b) where paragraph (a) above applies, shall be deemed to be served on the insurer at the time when it is posted.
- (2) Subsection (1) above shall have effect without prejudice to the service of a notice of cancellation (whether by post or otherwise) in any way in which the notice could be served apart from that subsection, whether the notice is served on the insurer or on a person who is the agent of the insurer for the purpose of receiving such a notice.
- (3) A notice of cancellation which is sent by post to a person at his proper address, otherwise than in accordance with subsection (1) above, shall be deemed to be served on him at the time when it is posted.
- (4) So much of section 26 of the Interpretation Act 1889 as relates to the time when service is deemed to have been effected shall not apply to a notice of cancellation.

#### **47 Linked long term policies**

- (1) Regulations may be made, as respects the matters specified in subsection (2) below, in relation to contracts of the kinds mentioned in section 59(6) of the Act of 1967 (long term insurance contracts) which—
  - (a) are entered into by insurance companies to which the Act of 1958 applies or by members of Lloyd's or of any other association of underwriters approved for the purposes of Part II of the Act of 1967 by the Secretary of State; and
  - (b) are contracts under which the benefits payable to the policy holder are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contract) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified).
- (2) Regulations under this section may make provision for—
  - (a) restricting the descriptions of property or the indices of the value of property by reference to which benefits under the contracts may be determined;
  - (b) regulating the manner in which and the frequency with which property of any description is to be valued for the purpose of determining such benefits and the times at which reference is to be made for that purpose to any index of the value of property ;
  - (c) requiring insurers under the contracts to appoint valuers for carrying out valuations of property of any description for the purpose of determining such benefits (being valuers who comply with the prescribed requirements as to

- qualifications and independence from the insurer) and to furnish the Secretary of State with the prescribed information in relation to such appointments;
- (d) requiring insurers under the contracts to furnish, in such manner and at such times or intervals as may be prescribed, such information relating to the value of the benefits under the contracts as may be prescribed, whether by sending notices to policy holders, depositing statements with the Secretary of State or the registrar of companies, publication in the press or otherwise;
  - (e) requiring insurers under the contracts to furnish to the Secretary of State, in such manner and at such times or intervals as may be prescribed, such information certified in such manner as may be prescribed with respect to so much of their business as is concerned with the contracts or with any class or description of the. contracts, and enabling the Secretary of State to publish such information in such ways as he thinks appropriate.
- (3) Regulations made for the purposes of subsection (2)(d) above may, in relation to notices required to be sent to policy holders, impose requirements (whether as to type, size, colour or disposition of lettering, quality or colour of paper, or otherwise) for securing that such notices are easily legible.
  - (4) Regulations under this section may make different provision in relation to different cases or circumstances; and the Secretary of State may, on the application of any insurer, alter the requirements of any regulations under this section so as to adapt those requirements to the circumstances of that insurer or to any particular kind of contract entered into or proposed to be entered into by that insurer.
  - (5) Regulations under this section may, to such extent as may be specified therein, apply in relation to contracts entered into before the coming into operation of the regulations, including contracts entered into before the passing of this Act.
  - (6) Regulations under this section shall not apply in relation to any contract the effecting of which by the insurer constitutes the carrying on of industrial assurance business or to any contract entered into by an insurance company to which the Act of 1958 applies by reason only that the policy holder is eligible to participate in any established surplus as defined in section 9(4) above.

#### **48 Scope of Prevention of Fraud (Investments) Act 1958**

The agreements and arrangements mentioned in section 13(1) of the Prevention of Fraud (Investments) Act 1958 (misleading statements etc. inducing persons to invest money) and in the definition of " dealing in securities " in section 26(1) of that Act shall not include contracts of insurance.

#### **49 Validation of formation of certain pre-1967 insurance companies**

- (1) Section 434 of the Companies Act 1948 (which in certain cases forbids the formation otherwise than under that Act of a company, association or partnership consisting of more than twenty persons) shall be deemed not to have invalidated the formation of any insurance company which immediately before 3rd November 1966 was carrying on in Great Britain insurance business of any class relevant for the purposes of Part II of the Act of 1967 and is carrying on business of that class at the passing of this Act.
- (2) In subsection (1) above the reference to the said section 434 includes a reference to any corresponding enactment previously in force.



## **50 Validation of certain group policies**

- (1) Section 2 of the Life Assurance Act 1774 (policy on life or lives or other event or events not valid unless name or names of assured etc. inserted when policy is made) shall not invalidate a policy for the benefit of unnamed persons from time to time falling within a specified class or description if the class or description is stated in the policy with sufficient particularity to make it possible to establish the identity of all persons who at any given time are entitled to benefit under the policy.
- (2) This section applies to policies effected before the passing of this Act as well as to policies effected thereafter.

## **51 Withdrawal of statutory deposits by collecting societies**

The repeal by the Act of 1967 of subsection (2) of section 20 of the Act of 1958 (withdrawal of statutory deposits by insurance companies which satisfy the Board of Trade as to paid up share capital or margin of solvency) shall be deemed not to have extended to that subsection in its application to collecting societies as defined in section 1 of the Industrial Assurance Act 1923 ; and in its application to such societies that subsection shall have effect and be deemed always to have had effect as if for the reference to the Board of Trade there were substituted a reference to the Industrial Assurance Commissioner.

### *Supplementary*

## **52 Offences and penalties**

- (1) Any person who—
  - (a) makes default in complying with sections 7 to 9 or 35(1) above or with any requirement imposed under section 13 above; or
  - (b) in purported compliance with a requirement imposed under section 20 above furnishes information which he knows to be false in a material particular or recklessly furnishes information which is false in a material particular ; or
  - (c) causes or permits to be included in—
    - (i) any notice, statement or certificate served or furnished under or by virtue of section 3(6), 6(1) or 7(4) above;
    - (ii) any document deposited with the Secretary of State under section 5(4) or 18(4) above; or
    - (iii) any statement sent out under section 26(3)(b) above,  
a statement which he knows to be false in a material particular or recklessly causes or permits to be so included any statement which is false in a material particular,shall be guilty of an offence.
- (2) Any person guilty of an offence under subsection (1) above or under section 41, 42 or 43 above shall be liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both ;
  - (b) on summary conviction, to a fine not exceeding £400
- (3) Subject to the following provisions of this section—

- (a) any insurance company which makes default in complying with, or with a requirement imposed under, any provision of this Act, being a default for which no penalty is provided by the foregoing provisions of this section; and
- (b) any other person who makes default in complying with, or with a requirement imposed under, section 6, 8(6), 10, 14, 15, 16, 17, 20, 21 26(4), 27(5) or 34(1) above,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £400.

- (4) Where a person continues to make default in complying with—
  - (a) section 5(4), 18(4) or 39(3) above, section 8(1) of the Act of 1958 or section 77(1) of the Act of 1967 ; or
  - (b) a requirement imposed under section 19 or 20(1) above,
 after being convicted of that default he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £40 for each day on which the default so continues.
- (5) A person shall not be guilty of an offence by reason of his default in complying with section 34 or 35(1) above if he proves that he did not know that the acts or circumstances by virtue of which he became or ceased to be a controller of the body in question were such as to have that effect.
- (6) Where a person is charged with an offence in respect of his default in complying with a requirement imposed under section 20(2) or (3) above to produce any books or papers it shall be a defence to prove that they were not in his possession or control and that it was not reasonably practicable for him to comply with the requirement.
- (7) In section 89 of the Act of 1967 (criminal liability of director etc. of body corporate) after the word " director " there shall be inserted the words " chief executive " ; and that section and sections 88, 90 and 91 of that Act (other provisions about criminal proceedings under Part II of that Act) shall have effect as if this Act were contained in Part II of that Act.
- (8) In sections 60(4), 84(2) and 85(1) of the Act of 1967 (penalty for offences under that Act) for the words following " on summary conviction " there shall be substituted the words " to a fine not exceeding £400 " , but this subsection does not affect the penalty that can be imposed under those sections in respect of an offence committed before the passing of this Act.

### **53 Regulations and orders**

- (1) Section 34 of the Act of 1958 (which provides that regulations for the purposes of that Act are to be made by the Secretary of State and are to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament) shall apply also in relation to this Act.
- (2) The power to make orders under sections 1 and 28 above shall be exercisable by statutory instrument and no such order shall be made unless a draft of it has been approved by resolution of each House of Parliament.

## **54 Minor and consequential amendments and repeals**

- (1) The enactments mentioned in Schedule 1 to this Act shall have effect subject to the amendments there specified, being minor amendments and amendments consequential on the provisions of this Act.
- (2) Any functions of the Secretary of State under the Act of 1958 and Part II of the Act of 1967 shall cease to be exercisable concurrently by the Board of Trade.
- (3) The enactments mentioned in Schedule 2 to this Act (which include spent enactments) are hereby repealed to the extent specified in the third column of that Schedule.
- (4) The repeal of sections 65, 68 and 80 and subsection (1)(f) of section 109 of the Act of 1967 does not affect—
  - (a) any requirement or direction imposed or given under any of those sections before the passing of this Act; or
  - (b) the giving of a direction under the said section 68 in any case in which a notice has been served under subsection (3) of that section before the passing of this Act; or
  - (c) the exercise by an officer of any powers under the said section 109 in a case in which he has been authorised before the passing of this Act to exercise them ;and the Act of 1967 shall have effect in relation to any such requirement, direction or powers as if this Act had not been passed.
- (5) Any order under paragraph 10 of Schedule 2 to the Act of 1958 or section 92 of the Act of 1967 which is in force immediately before the passing of this Act shall have effect as if made under section 38 above ; and any modification or alteration which is then in force under section 4(5), 7(2) or 34(5) of the Act of 1958 shall have effect as if made by an order under the said section 38.
- (6) Any order under section 93 of the Act of 1967 which is in force immediately before the passing of this Act shall have effect as if made under section 37 above for the purposes of sections 7 to 9 above.
- (7) Any regulations made by the Industrial Assurance Commissioner by virtue of paragraph 6(2) of Schedule 2 to the Act of 1958 which are in force immediately before the passing of this Act shall, so far as they could have been made under subsection (1) of section 39 above, have effect as if made under that subsection.
- (8) The foregoing provisions of this section are without prejudice to section 38 of the Interpretation Act 1889 (effect of repeals).

## **55 Interpretation**

- (1) In this Act—
  - " the Act of 1958 " means the Insurance Companies Act 1958;
  - " the Act of 1967 " means the Companies Act 1967 ;
  - " contract of insurance " includes a contract to pay an annuity on human life ;
  - " ordinary long-term insurance business " has the meaning given in section 59(6) of the Act of 1967 ;
  - " long term policy holder " means a policy holder in respect of a policy the effecting of which by the insurer constituted the carrying on of long term business ;

" mortgage", in relation to Scotland, means a heritable security within the meaning of section 9(8) of the Conveyancing and Feudal Reform (Scotland) Act 1970;

" valuation regulations " means regulations under section 32 above.

- (2) References in this Act to a fund or funds maintained in respect of long term business are references to a fund or funds maintained under section 7(1)(b) above and in sections 25(2) and 30(7) above include references to a fund or funds maintained under section 3(1) of the Act of 1958.
- (3) The provisions of section 33(1) and (6) of the Act of 1958 and sections 94 and 102(2) to (4) of the Act of 1967 (interpretation of Act of 1958 and Part II of Act of 1967) shall apply also in relation to this Act.
- (4) In any provision of this Act except section 31 and in the Act of 1967 " controller ", " manager " and " chief executive " have the meaning given in section 2 above.
- (5) Any reference in sections 1, 2(1) to (4), (6) and (7) and 12(4) above and in sections 60 to 69 and section 104 of the Act of 1967 to an incorporated company or a company shall include a reference to any body corporate other than a registered society.

## **56 Application to Northern Ireland**

- (1) This Act shall apply to Northern Ireland subject to the modifications specified in Schedule 3 to this Act.
- (2) This Act shall, so far as it relates to matters within the powers of the Parliament of Northern Ireland, be deemed for the purposes of section 6 of the Government of Ireland Act 1920 to be an Act passed before the appointed day within the meaning of that section.

## **57 Short title, citation and commencement**

- (1) This Act may be cited as the Insurance Companies Amendment Act 1973.
- (2) The Insurance Companies Acts 1958 to 1967 and this Act may be cited together as the Insurance Companies Acts 1958 to 1973.
- (3) Section 11 above shall not take effect until the first regulations made for the purposes of that section come into operation.
- (4) Sections 26 and 27 above and the repeal of sections 11 and 12 of the Act of 1958 shall not take effect until the expiration of the period of six months beginning with the date of the passing of this Act; and, in relation to any amalgamation or transfer in respect of which proceedings under the said section 11 have been begun before the expiration of that period, that Act and the Act of 1967 shall continue to have effect as if this Act had not been passed.
- (5) The repeal of section 17(2) and (3) of the Act of 1958 and Schedules 3 and 4 to that Act shall not take effect until the date on which the first rules made by virtue of section 30(5) above come into operation ; and the provisions of this Act relating to winding up shall not affect any winding up commenced before that date.
- (6) The repeal of section 25 of the Act of 1958 shall not take effect until the date on which the first regulations under section 41 above come into operation.

- (7) Sections 33 to 35 above and the repeal of sections 82 and 83 of the Act of 1967 shall not take effect until the date on which the first regulations made for the purposes of sections 33 to 35 come into operation, and so long as the said sections 82 and 83 continue in force the Act of 1967 shall have effect in relation to them as if this Act had not been passed.
- (8) Sections 44 to 46 above shall not take effect until the first regulations under subsection (5) of the said section 44 come into operation.