



# Insurance Companies Act 1958

## 1958 CHAPTER 72

### *Miscellaneous and supplemental provisions*

#### **25 Advertisements, etc., referring to amount of authorised capital**

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

#### **26 Penalty for non-compliance with Act**

- (1) Subject to the provisions of this section, any insurance company which makes default in complying with any of the requirements of this Act shall be liable to a penalty not exceeding one hundred pounds, or, in the case of a continuing default, to a penalty not exceeding fifty pounds for every day during which the default continues, and every director, manager, secretary or other officer or agent of the company who is knowingly a party to the default shall be liable to a like penalty.
- (2) Subject as aforesaid, if any such default continues for a period of three months after notice of default by the Board of Trade (which notice shall be published in one or more newspapers as the Board may, upon the application of one or more policy holders or shareholders, direct), the default shall be a ground on which the court may order the winding up of the company, in accordance with the Companies Act, 1948.
- (3) This section shall not apply as respects a default in complying with a requirement contained in any of the following provisions of this Act, that is to say, section two, subsection (3) of section thirteen, section fourteen and Parts I and III of the Second Schedule.

#### **27 Penalty for falsifying statements, etc.**

If any account, balance sheet, abstract, statement or other document required by any provision of this Act other than section fourteen thereof is false in any particular to the

knowledge of any person who signs it, that person shall be guilty of a misdemeanour and shall be liable on summary conviction to a fine not exceeding fifty pounds.

## **28 Recovery and application of penalties**

Every penalty imposed by section twenty-six or section twenty-seven of this Act shall be recovered and applied in the same manner as penalties imposed by the Companies Act, 1948, are recoverable and applicable.

## **29 Service of notices**

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

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

## **30 Documents deposited with Board of Trade**

- (1) The Board of Trade may direct any documents deposited with them under this Act, or certified copies thereof, to be kept by the registrar of companies or by any other officer of the Board; and any such documents and copies shall be open to inspection, and copies thereof may be procured by any person on payment of such fees as the Board may direct.
- (2) Every document deposited under this Act with the Board of Trade, and certified by the registrar of companies, or by any person appointed in that behalf by the President of the Board of Trade, to be a document so deposited, shall be deemed to be a document so deposited.
- (3) Every document purporting to be certified by the registrar of companies, or by any person appointed in that behalf by the President of the Board of Trade, 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 be proved.

## **31 Exercise of powers of Board of Trade**

Anything required or authorised by or under this Act to be done by, to or before the Board of Trade may be done by, to or before the President of the Board of Trade, any secretary, under-secretary or assistant secretary of the Board or any person authorised in that behalf by the President.

## **32 Expenses**

- (1) Subject to the provisions of subsection (3) of section thirteen of the Economy (Miscellaneous Provisions) Act, 1926 (which empowers the Treasury to issue but of the Bankruptcy and Companies Winding-up (Fees) Account, in aid of the moneys voted by Parliament for the salaries and expenses of the Board of Trade, sums towards

meeting the charges estimated by the Board in respect of salaries and expenses under the Companies Act, 1948, in relation to the winding up of companies-in England), any expenses incurred by the Board of Trade under this Act shall be defrayed out of moneys provided by Parliament.

- (2) The said subsection (3) shall have effect as if the expenses incurred by the Board of Trade under section fourteen of this Act were expenses incurred by the Board under the Companies Act, 1948, in relation to the winding up of companies in England.
- (3) Any sums paid to the Board of Trade under the proviso to subsection (5) of the said section fourteen shall be appropriated in aid of the moneys voted by Parliament for the salaries and expenses of the Board.

### **33 Interpretation**

- (1) In this Act, unless the context otherwise requires—

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

" actuary " means, except in section fourteen of this Act, an actuary possessing the prescribed qualifications ;

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

" bond investment business " means, subject to the provisions of subsection (3) of this section, the business of issuing bonds or endowment certificates by which the company, in return for subscriptions payable at periodic intervals of less than six months, contracts to pay the bond holder a sum at some future date, not being life assurance business, industrial assurance business, or sinking fund or capital redemption insurance business;

" chairman " means the person for the time being presiding over the board of directors or other governing body of the insurance company;

" court " means the High Court of Justice in England or, in the case of an insurance company registered or having its head office in Scotland, means, except in the provisions of this Act relating to deposits, the Court of Session;

" deed of settlement ", in relation to an insurance company, includes any instrument constituting the company ;

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

" financial year " means each period of twelve months at the end of which the balance of the accounts of the insurance company is struck, or, if no such balance is struck, means the calendar year ;

" fire insurance business " means, subject to the provisions of subsection (4) of this section, the issue of, or the undertaking of liability under, policies of insurance against loss by or incidental to fire ;

" former Companies Acts " means the Companies Act, 1929, and any enactment repealed by that Act or by the Companies (Consolidation) Act, 1908;

" Gazette " means the London or Edinburgh Gazette, as the case may require;

" general business " means insurance business of a class or classes specified in section one of this Act, not being long term business;

" industrial assurance business " has the meaning assigned to it by subsection (2) of section one of the Industrial Assurance Act, 1923;

" insolvent " means, in relation to an insurance company at any relevant date, that if proceedings had been taken for the winding up of the company the court could, in accordance with the provisions of sections two hundred and twenty-two and two hundred and twenty-three of the Companies Act, 1948, hold, or have held, that the company was at that date unable to pay its debts;

" insurance company " means a person or body of persons (whether incorporated or not) carrying on insurance business;

" interest " includes dividends ;

" life assurance business " means, subject to the provisions of subsection (5) of this section, the issue of, or the undertaking of liability under, policies of assurance upon human life, or the granting of annuities upon human life, not being industrial assurance business;

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

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

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

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

(g) against any other risks the insurance of which is customarily undertaken in conjunction with or as incidental to any such business as is referred to in the foregoing paragraphs of this definition;

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

" policy "—

(a) in relation to life assurance business or industrial assurance business, includes an instrument evidencing a contract to pay an annuity upon human life, and

(b) in relation to accident insurance business, motor vehicle insurance business, marine, aviation and transit insurance business or employers' liability insurance business, includes any policy under which there is for the time being an existing liability already accrued, or under which any liability may accrue, and

(c) in relation to bond investment business, includes any bond, certificate, receipt or other instrument evidencing the contract with the company;

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

(a) in relation to life assurance business or industrial assurance business, includes an annuitant, and

(b) in relation to accident insurance business, motor vehicle insurance business or marine, aviation and transit insurance business, includes a person to whom, under any policy, any sum is due or a weekly or other periodic payment is payable, and

(c) in relation to employers' liability insurance business, includes a person to whom, under any policy, any sum is due or a weekly payment is payable;

" prescribed " means prescribed by regulations under this Act;

" registrar of companies " has the meaning assigned to it by section four hundred and fifty-five of the Companies Act, 1948;

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

(2) References in the foregoing subsection to damage include references to loss of life and personal injury.

(3) Where, in return for subscriptions payable at periodic intervals of less than six months, a person or body of persons, whether incorporated or not (not being registered or certified under the Acts relating to friendly societies, building societies or trade unions) undertakes, by prospectus or otherwise, to pay to the subscriber at a future date the amount of the subscriptions with interest thereon (with or without a right on the part of the subscriber to the return of his subscriptions in the meantime), that business shall for purposes of this Act be treated as bond investment business, and the card, book or other document in which receipts of subscriptions are entered shall be treated as the instrument evidencing the contract, and the subscriber shall be treated as the owner of the policy, subject to such modifications of the provisions of the Third Schedule to

this Act as may be prescribed for the purpose of adapting to such business as aforesaid the provisions of that Schedule relating to bond investment business.

- (4) A policy shall not be deemed for the purposes of this Act to be a policy of fire insurance by reason only that loss by fire is one of the various risks covered by the policy.
- (5) Any business carried on by an insurance company which under the provisions of any special Act relating to that company (being an Act which came into operation before the first day of July, nineteen hundred and ten) is to be treated as life assurance business shall continue to be treated as life assurance business or industrial assurance business, as the case may require, and shall not be deemed to be other business of a class specified in section one of this Act.
- (6) Except where the context otherwise requires, references in this Act to any other enactment shall be construed as references to that enactment as amended by or under any subsequent enactment, including this Act.

#### **34 Provisions as to regulations**

- (1) The Board of Trade may make regulations under this Act for any purpose for which regulations are authorised or required to be made thereunder.
- (2) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument.
- (3) Any statutory instrument containing regulations made under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament:  
  
Provided that this subsection shall not apply to any statutory instrument containing only regulations made under section nine of this Act or subsection (3) of section thirty-three thereof.
- (4) Subject to the provisions of the last foregoing subsection, regulations made under subsection (1) of section twenty of this Act shall have effect as if they were enacted in this Act.
- (5) The Board of Trade may, on the application or with the consent of any insurance Company, alter any form prescribed by regulations made by them under this Act for the purpose of adapting the form to the circumstances of the company.

#### **35 Savings**

- (1) This Act shall not affect the National Debt Commissioners or the Postmaster General, acting under the authorities vested in them respectively by the Government Annuities Act, 1929, and the Post Office Savings Bank Act, 1954.
- (2) Save as otherwise expressly provided by this Act, nothing in this Act shall apply to insurance business of any class other than a class specified in section one of this Act.

#### **36 Consequential amendments, repeals, revocations and transitional provisions**

- (1) The Industrial Assurance Act, 1923, shall have effect subject to the amendments specified in Part I of the Fifth Schedule to this Act, being amendments consequential on the provisions of this Act.

- (2) The enactments set out in Part II of the said Fifth Schedule are hereby repealed to the extent specified in the third column of that Part.
- (3) Part III of the Government of Ireland (Companies, Societies, &c.) Order, 1922, and the Government of Ireland (Assurance Companies) Order, 1924 (which together modify the provisions of the Assurance Companies Act, 1909, in consequence of the coming into operation of the Government of Ireland Act, 1920) and the Employers' Liability Insurance (Modification) Order, 1948 (which modifies the provisions of the Assurance Companies Acts, 1909 to 1946, in consequence of the coming into operation of the National Insurance (Industrial Injuries) Act, 1946) are hereby revoked.
- (4) In so far as any instrument made or other thing done under an enactment repealed or revoked by this Act could have been made or done under a corresponding enactment in this Act, it shall not be invalidated by the repeals and revocations effected by the foregoing provisions of this section but shall have effect as if it had been made or done under that corresponding enactment.

Without prejudice to the generality of the foregoing provisions of this subsection, where an enactment repealed by this Act confers power to make rules but the corresponding enactment in this Act confers power to make regulations, rules made under the first-mentioned enactment in force at the commencement of this Act shall be deemed to be regulations and not rules, and references to rules made thereunder in an enactment not repealed by this Act shall be construed accordingly.

- (5) Any enactment or other document whatsoever referring to any enactment repealed or revoked by this Act shall be construed as referring (or including a reference) to the corresponding enactment in this Act.

Without prejudice to the generality of the foregoing provisions of this subsection, any enactment or document whatsoever referring to an assurance company within the meaning of the Assurance Companies Act, 1909, shall be construed as referring (or as including a reference) to an insurance company to which this Act applies.

- (6) Regulations may provide for the manner in which deposits made, and premiums placed in a trust fund, under the provisions of the Eighth Schedule to the Assurance Companies Act, 1909, as originally enacted are to be dealt with in consequence of the substitution for those provisions, by virtue of sub-paragraph (1) of paragraph 3 of Part II of the Second Schedule to the Assurance Companies Act, 1946, of the provisions now contained in the First Schedule to this Act, and may provide for any other matters which appear to the Board of Trade to be incidental to or consequential on the said substitution ; and the said regulations shall have effect notwithstanding anything in any trust deed made for the purposes of the first-mentioned provisions.
- (7) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals; and the said section thirty-eight shall apply in relation to revocations effected by this Act as it applies in relation to repeals.

### **37 Short title, commencement and extent**

- (1) This Act may be cited as the Insurance Companies Act, 1958.
- (2) This Act shall come into operation at the expiration of a period of three months beginning with the date on which it is passed.

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*Status: This is the original version (as it was originally enacted).*

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(3) This Act shall not extend to Northern Ireland.