



THE LIFE INSURANCE (NATIONALISATION) ORDER, 1972



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THE SCHEDULE.

THE LIFE INSURANCE (NATIONALISATION) ORDER, 1972

PRESIDENT'S ORDER NO. 10 OF 1972

[18th March, 1972]

WHEREAS it is expedient in the public interest to provide for the nationalisation of life insurance business in Pakistan;

NOW, THEREFORE, in pursuance of the Proclamation of the 25th day of March, 1969, read with the Proclamation of the 20th day of December, 1971, and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order:—

CHAPTER I

PRELIMINARY

1. Short title extent and commencement.—(1) This Order may be called the Life Insurance (Nationalisation) Order, 1972.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

- (a) “Act” means the Insurance Act, 1938;
- (b) “assets”. includes all rights and powers and all properties, whether movable or immovable, cash balances, reserve funds, investments, deposits and all other interests and rights in or arising out of any such property and the books of account and documents;
- (c) “composite insurer” means an insurer carrying on any other class of insurance business alongwith life-insurance business;
- (d) “Corporation” means a Corporation set up under Article 11;
- (e) “Director” means a Director of the Corporation;
- (f) “persons vested with the management” includes the principal officer of an insurer and, except in the case of an insurer referred to in paragraph (i) or (iii) of sub- clause (a) of clause (9) of section 2 of the Act, the board of directors of an insurer;
- (g) “specified date” means the 19th day of March, 1972;
- (h) “Tribunal” means a Tribunal set up under section 110 of the Act;

- (i) “trustee” in relation to an insurer means the trustee appointed under Article 4 in respect of such insurer and includes a sub-trustee performing the functions of a trustee; and
- (j) words and expressions used but not defined in this Order shall have the same meanings as in the Act.

3. Order to override other laws. This Order shall have effect notwithstanding anything contained in the Provisional Constitution Order or in any other law for the time being in force.

CHAPTER II

ACQUISITION OF MANAGEMENT OF LIFE INSURANCE BUSINESS BY THE ¹[FEDERAL GOVERNMENT].

4. Vetting of management of insurers in the Federal Government.—As from the specified date, the management of all insurers transacting life insurance business in so far as the management relates to such business shall vest in the ¹[Federal Government] and all persons vested with such management immediately before the specified date shall be divested of such management.

5. Appointment of a trustee for managing the affairs of insurers.—(1) The ¹[Federal Government] may appoint a trustee for the management of the affairs of one or more insurers transacting life insurance business in relation to such business.

(2) Upon the appointment of a trustee under clause (1) in respect of an insurer, the management of the affairs of such insurer in so far as they relate to life insurance business shall vest in that trustee.

(3) The trustee shall act under the direction and control of the ¹[Federal Government].

(4) A trustee may be assisted by such sub-trustees as may be appointed by the ¹[Federal Government].

(5) A trustee may delegate to a sub-trustee such of his powers under this Order, subject to such conditions, if any, as he may deem fit.

(6) A trustee and a sub-trustee shall receive such remuneration and, save as provided in clause (7), be subject to such terms and conditions of service as the ¹[Federal Government] may direct.

(7) A trustee and a sub-trustee shall hold office during the pleasure of the ¹[Federal Government].

6. Possession of assets relating to life insurance business.—(1) A trustee appointed in respect of an insurer shall take possession of all assets of the insurer in so far as they relate to life insurance business.

¹Subs. by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of 1973), s. 2, for “Central Government”.

(2) Where a composite insurer has any assets in common use or which cannot be allocated to either life insurance business or any other class of insurance business, the trustee may, if he is of the opinion that the assets are allocable to life insurance business, take possession of those assets.

7. Restriction on transfer of assets.—(1) If a trustee has reason to believe that the assets constituting the life fund of a composite insurer are not sufficient to meet the liabilities of the insurer in respect of life insurance, the trustee may apply to the Controller of Insurance to prohibit the insurer from transferring, pledging, hypothecating or in any way directly or indirectly disposing of, or creating a lien in respect of, all or any of the assets of the insurer.

(2) Upon an application under clause (1) the Controller of Insurance may pass such orders as he deems fit:

Provided that an insurer aggrieved by the order of the Controller of Insurance may appeal to the Tribunal whose decision on such appeal shall be final.

8. Power of trustee to recover certain property. A trustee appointed in respect of an insurer shall have all the powers which an Administrator has under sections 52C and 52D of the Act, as if he were an Administrator appointed under section 52A of the Act in respect of that insurer.

9. Directors, etc., not to withhold assets. No director or officer of an insurer nor any other person, shall retain or fail to deliver to the trustee any assets of which the trustee is required to take possession under Article 6.

10. Continuation in service of life insurance employees. Every whole-time employee of an insurer the management of whose life insurance business vests in the ¹[Federal Government] who was employed by the insurer wholly or mainly in connection with the life business immediately before the specified date shall continue to hold his office on the same terms and conditions, including remuneration and tenure of office, as were applicable to him immediately before the specified date until his employment is terminated or his terms and conditions of service are altered by the trustee :

Provided that nothing contained in this Article shall apply to any employee who has, by notice in writing given within ten days of the specified date, intimated to the trustee his intention not to continue in employment.

CHAPTER III

ESTABLISHMENT OF CORPORATIONS TO TRANSACT LIFE INSURANCE BUSINESS IN PAKISTAN.

11. Establishment of Life Insurance Corporation.—(1) With effect from such date, hereinafter referred to as the appointed date, as the '[Federal Government] may, by notification in the official Gazette, appoint, there shall be established one or more Corporations for the purpose of carrying on life insurance business.

¹Subs. by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of 1973), s. 2, for "Central Government".

(2) A Corporation shall be a body corporate to be known by a distinct name and having perpetual succession and a common seal with power, subject to the provisions of this Order, to acquire, hold and dispose of property, and may be its name sue and be sued.

12. Constitution of Corporation.— (1) A Corporation shall consist of such number of Directors as the ¹[Federal Government] may think fit to appoint; and one of the Directors shall be appointed by the ¹[Federal Government] to be the Chairman of the Corporation.

(2) Before appointing a person to be a Director, the ¹[Federal Government] shall satisfy itself that that person will have no such financial or other interest as is likely to affect prejudicially the performance by him of his functions as a Director, and the ¹[Federal Government] shall also satisfy itself from time to time with respect to every Director that he has no such interests; and any person who is, or whom the ¹[Federal Government] proposes to appoint and who has consented to be, a Director shall, whenever required by the ¹[Federal Government] so to do, furnish to it such information as the ¹[Federal Government] considers necessary for the performance of its duties under this clause.

(3) A Director who is in any way directly or indirectly interested in a contract made or proposed to be made by the Corporation shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest to the Corporation; and it shall not be lawful for the Director to take part in any deliberations or discussion of the Corporation with respect to that contract.

13. Capital of Corporation. The initial capital of a Corporation shall be provided by the ¹[Federal Government] and the amount of such capital and the terms and conditions relating to its provision shall be such as may be determined by the ¹[Federal Government].

CHAPTER IV

FUNCTIONS OF CORPORATION

14. Functions of Corporation.—(1) Subject to the rules, if any, made by the ¹[Federal Government] in this behalf, it shall be the general duty of a Corporation to carry on life insurance business, whether in or outside Pakistan, and the Corporation shall so exercise its powers under this Order as to secure that life insurance business is developed to the best advantage of the community.

(2) Without prejudice to the generality of the provisions contained in clause (1) but subject to the other provisions contained in this Order, a Corporation shall have power—

- (a) to carry on capital redemption business, annuity certain business and reinsurance business in so far as such reinsurance business appertains to life insurance business;
- (b) to invest the funds of the Corporation in such manner as the Corporation may think fit and to take all such steps as may be necessary or expedient for the protection or realization of any investment, including the taking over of and administering any property offered as security for the investment until a suitable opportunity arises for its disposal;
- (c) to acquire, hold and dispose of any property for the purpose of its business;

¹Subs. by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of 1973), s. 2, for “Central Government”.

- (d) to transfer the whole or any part of the life insurance business carried on outside Pakistan to any other person or persons, if in the interest of the Corporation it is expedient so to do;
- (e) to advance or lend money upon the security of any movable or immovable property or otherwise;
- (f) to borrow or raise any money in such manner and upon such security as the Corporation may think fit;
- (g) to carry on either by itself or through any subsidiary any other business in any case where such other business was being carried on by a subsidiary of an insurer whose life insurance business has been transferred to and vested in the Corporation under this Order;
- (h) to carry on any other business which may seem to the Corporation to be capable of being conveniently carried on in connection with its business and calculated directly or indirectly to render profitable the business of the Corporation; and
- (i) to do all such things as may be incidental or conducive to the proper exercise of any of the powers of the Corporation.

(3) In the discharge of any of its functions the Corporation shall act as far as may be on sound business principles.

CHAPTER V

TRANSFER OF EXISTING LIFE INSURANCE BUSINESS TO A CORPORATION

15. Transfer of assets and liabilities of existing insurers carrying on life insurance business.—(1) All the assets and liabilities appertaining to the life insurance business in Pakistan of all insurers shall, on the appointed date, stand transferred to, and vested in,

- (a) the Corporation, if there be only one, and
- (b) such of the Corporations, where there are more than one, in such manner and to such extent as the ¹[Federal Government] may specify in this behalf.

(2) The assets appertaining to the life insurance business of an insurer shall be deemed to include all rights and powers, and all property, whether movable or immovable, appertaining to his life insurance business including, in particular, cash balances, reserve funds, investments, deposits and all other interests and rights in or arising out of such property as may be in the possession of the insurer and all books of account or documents relating to the life insurance business of the insurer; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind then existing and appertaining to the life insurance business of the insurer.

¹Subs. by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of 1973), s. 2, for “Central Government”.

16. Provident, superannuation and other like funds.—(1) Where an insurer whose life insurance business is to be transferred to, and vested in a Corporation under Article 15, has established a provident or superannuation fund or any other like fund for the benefit of his employees and constituted a trust in respect thereof (hereafter in this Article referred to as an existing trust), the moneys standing to the credit of any such fund on the appointed date together with any other assets belonging to such fund, shall, subject to the provisions of clause (2), stand transferred to and vest in the Corporation on the appointed date free from any such trust.

(2) Where all the employees of any such insurer do not become employees of a Corporation under Article 19, the moneys and other assets belonging to any such fund as is referred to in clause (1) shall be apportioned between the persons responsible for the fund and the Corporation in such manner as may be prescribed by rules; and, in the case of any dispute regarding such apportionment, the decision of the [Federal Government] thereon shall be final.

(3) A Corporation shall, as soon as may be after the appointed date, constitute in respect of the moneys and other assets which are transferred to and vested in it under this Article, one or more trusts having objects as similar to the objects of the existing trust as in the circumstances may be practicable.

(4) Where all the moneys and other assets belonging to an existing trust are transferred to and vested in a Corporation under this Article, the persons responsible for such trust shall, as from the appointed date, be discharged from the trust, except as respects things done or omitted to be done before the appointed date.

17. General effect of vesting of Life Insurance Business.—(1) Unless otherwise expressly provided by or under this Order, all contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the appointed date to which an insurer whose life insurance business has been transferred to and vested in a Corporation is a party of which are in favour of such insurer shall, in so far as they relate to the life insurance business of the insurer, be of as full force and effect against or in favour of the Corporation, as the case may be, and may be enforced or acted upon as fully and effectually as if, instead of the insurer, the Corporation had been a party thereto or as if they had been entered into or issued in favour of the Corporation.

(2) If on the appointed date any suit, appeal or other legal proceeding of whatever nature is pending by, or against an insurer, then, in so far as it relates to his life insurance business, it shall not abate, be discontinued or be in any way prejudicially affected by reason of the transfer to a Corporation of the Business of the insurer or of anything done under this Order, but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Corporation.

18. Provisions as to composite insurers.—(1) For the removal of doubt, it is hereby declared that in any case where an insurer whose life insurance business has been transferred to and vested in a Corporation under this Order is a composite insurer, the provisions of the preceding Articles shall apply only to the extent to which any property appertains to his life insurance business and to rights and powers acquired and to debts, liabilities and obligations incurred, and to contracts agreements and other instruments made by the insurer for the purpose of his life insurance business and to legal proceedings relating to those purposes, and the provisions of those Articles shall be construed accordingly.

¹Subs. by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of 1973), s. 2, for “Central Government”.

(2) The ¹[Federal Government] may, by rules made in this behalf, provide—

- (a) for the determination of the question whether any property appertains to the life insurance business of an insurer or whether any rights, powers, debts, liabilities or obligations were acquired or incurred, or any contract, agreement or other instrument was made by the insurer for the purposes of his life insurance business or whether any document relates to those purposes;
- (b) for the allocation of the paid-up capital, or assets representing paid-up capital, as the case may be, between the life insurance business of the insurer and any other business;
- (c) for substituting for any agreement entered into by any insurer partly for the purposes of his life insurance business and partly for other purposes separate agreements in the requisite terms and for any apportionments and indemnities consequent thereon;
- (d) for the severance of leases comprising property of which part only is transferred to and vested in a Corporation by virtue of this Order and for apportionments consequent on such severance;
- (e) for the apportionment and the making of financial adjustments with respect to any debts, liabilities or obligations incurred by any such insurer partly for the purposes of his life insurance business and partly for other purposes and for any necessary variation of mortgages and encumbrances relating to such debts, liabilities or obligations;
- (f) for the apportionment of the moneys and other assets belonging to any provident or superannuation fund or any other like fund to which the provisions of Article 16 do not apply between persons employed in connection with the life insurance business of an insurer and other persons; and
- (g) for any other matters supplementary or incidental to or consequential on the matters aforesaid for which provision appears to be necessary or expedient,

(3) Where at any time before the expiration of six months from the appointed date a question arises under this Article or under any rules made thereunder as to whether any property is or was held or used by the insurer for the purposes of his life insurance business, the question shall be referred to the Tribunal for decision.

19. Transfer of service of existing employees of Insurers to a Corporation.—(1) Every whole-time employee of an insurer whose life insurance business has been transferred to and vested in a Corporation and who was employed by the insurer wholly or mainly in connection with his life insurance business immediately before the appointed date shall, on and from the appointed date become an employee of the Corporation and shall hold his office therein on the same terms and conditions including remuneration, tenure of office, rights and privileges as to pension and gratuity and other matters, as were applicable to him immediately before the appointed date until his

¹Subs. by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of 1973), s. 2, for “Central Government”.

employment in the Corporation is terminated or his terms and conditions of service are altered by the Corporation:

Provided that nothing contained in this clause shall apply to any employee who has, by notice in writing given to the ¹[Federal Government] prior to the appointed date, intimated his intention of not becoming an employee of the Corporation.

(2) Notwithstanding anything contained in clause (1) or in any contract of service, a Corporation may, for the purpose of rationalizing the pay scales of employees who have become employees of the Corporation under that clause or for the purpose of reducing the remuneration payable to such employees in cases where, in the interest of the Corporation and its policy holders, a reduction is called for, alter the terms and conditions of service of the employees as to their remuneration in such manner as it thinks fit; and, if the alteration is not acceptable to any employee, the Corporation may terminate his employment by giving him compensation equivalent to three months' remuneration unless the contract of service with such employee provides for a shorter notice of termination.

Explanation.— The compensation payable to an employee under this clause shall be in addition to and not in derogation of any of his rights as to pension, gratuity, provident fund money or other benefit to which he may be entitled under his contract of service.

(3) If any question arises as to whether any person was a whole time employee of an insurer or as to whether any employee was employed wholly or mainly in connection with the life insurance business of an insurer immediately before the appointed date the question shall be referred to the ¹[Federal Government] whose decision shall be final.

(4) Notwithstanding anything contained in any law for the time being in force, the transfer of the services of any employee of an insurer to a Corporation shall not, except as provided in this Article, entitle any such employee to any compensation, and no such claim shall be entertained by any court, tribunal or other authority.

20. Duty to deliver possession of property and documents relating hereto.— (1) Where any property appertaining to the life insurance business of an insurer has been transferred to and vested in a Corporation under this Order, then,-

- (a) every person in whose possession, custody or control any such property may be shall deliver the property to the Corporation forthwith; and
- (b) any person who, on the appointed date, has in his possession, custody or control any books, documents or other papers relating to such life insurance business shall be liable to account for the said books, documents and papers to the Corporation, and shall deliver them to the Corporation or to such person as the Corporation may direct.

(2) In particular, all the assets of an insurer appertaining to life insurance business held in deposit by the State Bank of Pakistan under the Act or by persons holding such assets in trust shall be delivered to the Corporation.

¹Subs. by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of 1973), s. 2, for "Central Government

(3) Without prejudice to the other provisions contained in this Article, it shall be lawful for the Corporation to take all necessary steps for acquiring possession of all properties which have been transferred to and vested in it under this Order.

21. Power of Corporation to modify contracts of life insurance in certain cases. A Corporation may, having regard to the financial condition on the appointed date of any insurer whose life insurance business has been transferred to and vested in the Corporation, reduce the amounts of insurance under contracts of life insurance entered into by such insurer before the appointed date, in such manner and subject to such conditions as it thinks fit:

Provided that no such reduction shall be made except in accordance with a scheme prepared by the Corporation in the behalf and approved by the ¹[Federal Government].

22. Right of Corporation to seek relief in respect of certain transactions of the insurer.—

(1) Where an insurer whose life insurance business has been transferred to and vested in a Corporation under this Order has, at any time within fifteen years preceding the appointed date,—

- (a) made any payment to any person without consideration;
- (b) sold or disposed of any property of the insurer without consideration or for an inadequate consideration;
- (c) acquired any property or rights for an excessive consideration;
- (d) entered into or varied any agreement so as to require an excessive consideration to be paid or given by the insurer;
- (e) entered into any other transaction of such an onerous nature as to cause a loss to, or impose a liability on, the insurer exceeding any benefit accruing to the insurer;
- (f) if a composite insurer transferred any property from his life department to his general department without consideration or for an inadequate consideration;
- ²[(g) acted, or omitted to act, in violation of any provision of the Act and has thereby caused a loss to, or imposed a liability on, the insurer.].

and the payment, sale, disposal, acquisition, agreement or variation thereof or other transaction or transfer was not reasonably necessary for the purpose of the life insurance business of the insurer or was made without reasonable care and prudence on the part of the insurer, regard being had in either case, to the circumstances at the time, the Corporation may apply for relief to the Tribunal in respect of such transaction, and all parties to the transaction shall, unless the Tribunal otherwise directs, be made parties to the application.

(2) The Tribunal may make such order against any of the parties to the application as it thinks just having regard to the extent to which those parties were respectively responsible for the transaction or benefited from it and all the circumstances of the case.

¹Subs. by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of 1973), s. 2, for "Central Government

²New sub-clause (g) added and shall be deemed always to have been so added by the Life Insurance (Nationalisation) (Amdt.) Act, 1975(75 of 1975),s.2.

(3) Where an application is made to the Tribunal under clause (1) in respect of any transaction and the application is determined in favour of the Corporation, the Tribunal shall have exclusive jurisdiction to determine any claims outstanding in respect of the transaction.

(4) Notwithstanding anything contained in this Article or anything contained in the Act, the Corporation may bring suit under section 106 of the Act against any person to whom sub-section (1) of that section is applicable.

¹[(5) Any amount due to the Corporation in pursuance of an order of the Tribunal under clause (3) or an order of the High Court under section 106 of the Act may be set off against any compensation, debt, liability or any money due by the Corporation to the insurer or its share holders or directors under the provisions of this Order, including the amount of compensation payable under Article 39.]

CHAPTER VI MANAGEMENT

23. Offices, branches and agencies.— (1) The principal office of a Corporation shall be at such place as the ²[Federal Government] may, by notification in the official Gazette, specify.

(2) A Corporation may establish as many zonal and regional offices as it thinks fit.

24. Committees of a Corporation.—(1) A Corporation may set up such committees as it may think fit for advising it on the matters relating to the discharging of its functions.

(2) The meetings of such committees shall be conducted in such manner as may be prescribed by regulations.

25. Corporation to be guided by the directions of Federal Government. In the discharge of its functions under this Order, a Corporation shall be guided by such directions in matters of policy involving public interest as the ²[Federal Government] may give to it in writing; and if any question arises whether a direction relates” to a matter of policy involving public interest the decision of the ²[Federal Government] thereon shall be final.

26. Staff of a Corporation. —(1) For the purpose of enabling it to discharge its functions under this Order, a Corporation may employ such” number of persons as it thinks fit.

(2) Every person who is employed by a Corporation or whose services have been transferred to it under this Order shall be liable to serve anywhere in Pakistan.

¹ New clause (5) added by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of 1973) s. 3.

² Subs. *ibid.*, s. 2, for “Central Government”.

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT

27. Funds of a Corporation. A Corporation shall have its own fund and all receipts of the Corporation shall be credited thereto and all payments of the Corporation shall be made therefrom.

28. Audit.—(1) The accounts of a Corporation shall be audited by auditors duly qualified to act as auditors of companies under the law for the time being in force relating to companies, and the auditors shall be appointed by the Corporation with the previous approval of the ¹[Federal Government] and shall receive such remuneration from the Corporation as the ¹[Federal Government] may fix.

(2) Every auditor in the performance of his, duties shall have at all reasonable times access to the books of account and other documents of the Corporation.

(3) The auditors shall submit their report to the Corporation and shall also forward a copy of their report to the ¹[Federal Government].

29. Actuarial valuation. A Corporation shall, once at least in every two years, cause an investigation to be made by actuaries into the financial condition of the business of the Corporation, including a valuation of the liabilities of the Corporation and submit the report of the actuaries to the ¹[Federal Government].

30. Annual report of activities of Corporation. A Corporation shall, as soon as may be after the end of each calendar year, prepare and submit to the ¹[Federal Government] in such form as may be prescribed by rules a report giving an account of its activities during that year; and the report shall also give an account of the activities, if any, which are likely to be undertaken by the Corporation during the year next following the year to which the report relates.

31. Surplus how to be utilized. If as a result of any investigation undertaken by a corporation under Article 29 any surplus emerges, ninety-seven and one half per cent of such surplus shall be allocated to or reserved for the policy-holders of the Corporation and the remainder may be utilized for such purposes and in such manner as the ¹[Federal Government] may determine.

CHAPTER VIII

MISCELLANEOUS

32. *[Corporation to have the exclusive privilege of carrying on life insurance business.] Omitted by the Finance Act, 1990 (VII of 1990), s. 14B.*

33. Power of Corporation to have official seal.—(1) A Corporation may have an official seal, as distinguished from its common seal, and whenever a divisional, zonal or any other office is authorised the use of the official seal a facsimile thereof shall have the name of the zonal, divisional or other office added to its face.

¹Subs. by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of 1973), s. 2, for "Central Government".

(2) The official seal may be affixed to such deed or document which is incomplete without that seal or to such other documents as may be authorised by the Corporation.

34. Repatriation of assets and liabilities in the case of foreign insurers in certain cases.—(1) Any insurer incorporated outside Pakistan may, within six months of the appointed date, make an application to the ¹[Federal Government] stating that among the assets pertaining to life insurance business of the insurer there are assets brought into Pakistan by the insurer for the purpose of building up his life insurance business in Pakistan, or there are assets pertaining to profits and expenses which he could lawfully have remitted from Pakistan, which, notwithstanding anything contained in Article 15, should not be transferred to and vested in a Corporation.

(2) On receipt of an application under clause (1) the ¹[Federal Government] shall determine the amount which was brought in by the insurer for the purpose of developing his life insurance business in Pakistan and the amounts of previous profits and expenses which were not remitted from Pakistan and, if the ¹[Federal Government] finds that the assets of the insurer are in excess of its liabilities, it may direct that the assets comprising the said amounts shall not be vested in the Corporation or, if the assets are vested in the Corporation, that the Corporation shall be divested of the same:

Provided that the ¹[Federal Government] may prescribe the manner in which the assets and liabilities shall be determined in such cases.

(3) In case of any insurer incorporated outside Pakistan the ¹[Federal Government] may also, by order, direct that any such liabilities in respect of life, insurance policies expressed in any foreign currency issued on the lives of the persons who are not citizens of Pakistan as are specified in the order, together with any such assets necessary to meet the liabilities as may be specified, shall not be transferred to or vested in the Corporation, that the Corporation shall be divested of the same.

(4) The amount of liabilities in respect of policies referred to in an order made under clause (3) shall be computed as at the 31st December, 1971, in accordance with the basis prescribed by the Controller of Insurance under sub-section (7) of section 13 of the Act, or the basis used by the actuary of an insurer to calculate the last valuation of liabilities of the insurer, whichever is higher.

Explanation.— In computing the amount of liabilities in respect of the policies referred to in this clause, allowance shall be made for receipts and payment in respect of such policies from the 31st day of December, 1971, up to the date of the commencement of this Order.

(5) Every order made by the ¹[Federal Government] under this Article shall be carried out by the Corporation in such manner as the ¹[Federal Government] may direct.

35. Policies to be guaranteed by Federal Government. The sums assured by all policies issued by the Corporation including any bonuses declared in respect thereof and, subject to the provisions contained in Article 21, the amounts assured by all policies issued by any insurer, the liabilities under which have vested in a Corporation under this Order, and all bonuses declared in respect thereof, whether before or after the appointed day, shall be guaranteed as to payment in cash by the ¹[Federal Government].

¹Subs. by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of 1973), s. 2, for “Central Government”.

36. Liquidation of Corporation. No provisions of law relating to the winding up of companies or corporations shall apply to a Corporation and a Corporation shall not be placed in liquidation save by order of the ¹[Federal Government] and in such manner as the Government may direct.

37. Special provisions for winding up of certain insurers. Where any insurer transacting life insurance business whose business has been transferred to and vested in a Corporation under this Order has, in accordance with the provisions of this Order, collected and distributed any moneys paid to him by the Corporation by way of compensation or otherwise and has also complied with any direction given to him by the Corporation for the purpose of securing that the ownership of any property or any rights is effectively transferred to the Corporation, the [Federal Government] may, on application being made to it in this behalf by such insurer, grant a certificate to the insurer that there is no reason for the continued existence of the insurer; and, where the ¹[Federal Government] has granted such a certificate, it shall cause the certificate to be published in the official Gazette and upon the publication of the certificate the insurer shall stand dissolved.

38. Application of the Insurance Act.—(1) The following sections of the Act shall, so far as may be, apply to a Corporation as they apply to any other insurer, namely, sections 3B (in so far as it relates to reinsurance), 3BB, 3D, 3E, 10, 11, 12A, 13, 14, 15, 20, 21, 22, 23, 25, 27, 28, 29, 30, 33, 34, 35, 36, 37, 38, 39, 40, 40A, 40B, 42, 42A, 43, 44, 45, 46, 47A, 47B, 47C to 47L and where the [Federal Government] has also entrusted to the claims Settlement Board the settlement of disputes relating to life insurance claims, sections 50A, 102 to 110, 110C, 111, 113, 114 and 116A.

(2) The ¹[Federal Government] may, by notification in the official Gazette, direct that all or any of the provisions of the Act other than those specified in clause (1) shall apply to a Corporation subject to such conditions and modifications as may be specified in the notification.

39. Compensation.— (1) Where the life insurance business of an insurer has been transferred to and vested in a Corporation, compensation shall be paid by the Corporation to that insurer.

(2) The amount of the compensation payable under clause (1) shall be determined, in accordance with the principles set out in the Schedule, by such authority as the ¹[Federal Government] may appoint in this behalf, and, if the amount so determined is approved by the ¹[Federal Government], it shall be offered to the insurer in full satisfaction of the compensation payable to him under clause (1).

(3) If the amount so offered is not acceptable to the insurer, he may, within such time as may be prescribed by rules, have the matter referred to the Tribunal for decision.

²[(4) Notwithstanding anything contained in clause (2), in the case of an insurer incorporated outside Pakistan whose paid-up capital is held outside Pakistan, the Federal Government may, with the consent of the insurer, settle the compensation payable to him under clause (1) in such manner as the Federal Government may consider equitable and direct the Corporation to pay the insurer the compensation so settled.]

40. Over valuation of assets or under valuation of liabilities.— (1) If the authority appointed under Article 39 has reason to believe that the assets have been grossly over-valued or the liabilities grossly under-valued or the surplus is inflated due to any reason whatever and a report thereon is made on the subject to the ¹[Federal Government] the ¹[Federal Government] may direct that the assets and

¹ Subs, by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of 1973), s. 2, for “Central Government”.

² New clause (4) added *ibid.*, s. 4.

liabilities shall be revalued on the basis prescribed by the Controller of Insurance under sub-section (7) of section 13 of the Act by an actuary nominated by the Controller of Insurance and for the purpose of such revaluation, the Controller of Insurance may, if necessary, appoint accountants or valuers of property and assets.

¹[(1A) The revaluation by the actuary under clause (1) shall form the basis for determining the amount of compensation payable under Article 39 and any benefits derived or enjoyed by the insurer before the appointed date because of any over-valuation of assets or undervaluation of liabilities shall be deducted from such compensation or otherwise recovered from the insurer by the Corporation.]

(2) The expenses of valuation of liabilities or assets shall be borne by the persons vested with the management of the insurer, before the appointed date.

(3) If it be found that the liabilities of the insurer exceed the assets, ²[or that loss has been caused to, or liability imposed on, the insurer by reason of its having acted, or omitted to act, in violation of any of the provisions of the Act, the ³[Federal Government] shall set off such difference ²[, loss or liability] against the compensation, if any, or take steps to recover such difference ²[, loss or liability] from the persons vested with the management of the insurer before the appointed date.

(4) Any person aggrieved by an order under clause (3) may appeal to the Tribunal whose decision shall be final.

⁴[40A. Conduct of Tribunal's proceedings and enforcement of order. —(1) For the conduct and disposal of proceedings under this Order, the Tribunal shall have the same powers as are vested in it under section 110 of the Act, including the power to regulate its own procedure, and may review any of its decisions in the event of there being a mistake apparent on the face of the record or correct any arithmetical or clerical error therein.

(2) Any decision of the Tribunal shall be enforced in the principal court of civil jurisdiction within whose local limits the insurer or other person against whom the decision is to be enforced has its principal place of business or, as the case may be, actually and voluntarily resides and carries on business or personally works for gain or owns any property, as if it were a decree passed by that court.]

⁵[40 B. Certain amounts recoverable an arrear of land revenue. Notwithstanding anything contained in this Order or in any other law for the time being in force and without prejudice to the right of the Corporation to recover its dues in any other manner, any dues of the Corporation determined by the Tribunal, or payable under a decree of any court, shall be recoverable as an arrear of land revenue.]

41. Savings. Nothing contained in this Order shall apply to—

- (i) any insurer whose registration stood cancelled immediately before the appointed day;
- (ii) any insurer whose business is being wound und the orders of the court:
- (iii) any person carrying on life insurance business whom the Act does not apply;

¹New clause (1A) ins by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 Of 1973), s. 5.

²Ins. by the Life Insurance (Nationalisation) (Amdt.) Act, 1975 (75 of 1975),

³Subs, by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of 1973), s. 2, for "Central Government".

⁴New Article 40A ins. *ibid.*s.6

⁵New Article 40B ins. by the Act 75 of 1975 s.4.

- (iv) the scheme run by the ¹[Federal Government] known as the Post Office Life Insurance Fund;
- ²[(v) any approved superannuation fund as defined in clause (5) of section 2 of the Income Tax Ordinance, 1979;]
- (vi) any composite insurer in respect of the management of whose affairs an Administrator has been appointed under section 52A of the Act;
- (vii) any scheme framed by or with the approval of the ¹[Federal Government] whereby, in consideration of certain compulsory deductions made by the Government from the salaries of its employees as part of the conditions of service, the payment of money is assured by the Government on the death of the employee concerned or on the happening of any contingency dependent on his life.

42. Certain powers of the Administrator. Notwithstanding anything contained in clause (vi) of Article 41, the Administrator appointed to manage the affairs of a composite insurer under the Act shall, as soon as may be practicable after the establishment of a Corporation, take steps—

- (a) to transfer the assets and liabilities pertaining to the life insurance business of the insurer to the Corporation, and
- (b) to vest the management of the affairs of the insurer in respect of any business other than life insurance in such person as may be directed by, the ¹[Federal Government]

43. Delegation of powers. The ¹[Federal Government] may, by notification in the official Gazette, direct that any of its powers under this Order shall, subject to such conditions, if any, as may be specified in the notification, be exercisable also by such person as may be specified in the notification.

44. Cognizance of offences. No court inferior to that of a Magistrate of the first class shall try any offence punishable under this Order.

45. Bar of jurisdiction.—(1) Except as otherwise specifically provided in this Bar of jurisdiction, no court, including the Supreme Court and a High Court, shall call in question, or permit to be called in question, any provision of this Order or of any rule or order made or anything done or any action taken or purporting to be made, done or taken thereunder.

(2) No court, including the Supreme Court and a High Court, shall grant any injunction or make any order, nor shall any such court entertain any proceedings, in relation to anything done or intended or purporting to be done under this Order.

¹Subs. by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of s. 3, 1973), s. 2. for "Central Government".

²Subs. by the Federal Laws (Revision and Declaration) Ordinance, 1981 (27 of 1981), 3 and Sch. II, for d. (v).

46. Indemnity. No suit, prosecution or other legal proceedings shall lie Indemnity against the ¹[Federal Government] or a trustee or sub-trustee or any other person for anything in good faith done under this Order or any rule or order made thereunder.

47. Constitution of a Broad. The ¹[Federal Government] may constitute a board consisting of one or more members to guide, coordinate and supervise the activities of trustee and to perform such other functions including the functions of the ¹[Federal Government) under this Order as may be assigned to it.

(2) The Board shall stand dissolved as soon as the trustees cease to transact life insurance business of insurers.

48. Power to make rules.— (1) The ¹[Federal Government] may, by notification in Power to the official Gazette, make such rules as appear to it necessary or make rules. expedient for carrying out the purposes of this Order.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for, or may empower any authority to make orders to provide for, all or any of the following matters, namely:—

- (a) ensuring the safety of the assets of an insurer the possession of which has been taken over by a trustee under this Order;
- (b) ensuring the due performance of their duties by the person connected with an insurer;
- (c) prohibiting anything likely to interfere with the proper functioning of an insurer;
- (d) the administration, management and disposal by way of transfer or otherwise of any property belonging to or managed by or on behalf of an insurer;
- (e) prohibiting the departure from any area of any person connected with the administration, control or functioning of an insurer;
- (f) preventing the entry of any person into any place or office used for the purposes of an insurer;
- (g) the taking of any steps for collecting, controlling and disposing of the assets of an insurer;
- (h) the term of office and conditions of service of directors of the Corporations;
- (i) the term of office and conditions of service of members of Committees of the Corporation;

¹Subs. by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of 1973), s. 2, for “Central Government”.

- (j) the manner in which the moneys and other assets belonging to any funds referred to in Article 16 shall be apportioned between such persons as are responsible for such funds and a Corporation;
- (k) the manner in which and the persons to whom any compensation under this Order may be paid;
- (l) the manner in which the assets of an insurer may be valued;
- (m) the time within which any matter to be referred to the Tribunal for decision under this Order may be so referred;
- (n) the manner in which and the conditions subject to which investment may be made by the Corporation;
- (o) the manner in which an employees, agents and employers of agents relations committee may be constituted for each such area as may be specified in an order in this behalf;
- (p) the fees payable under this Order and the manner in which they are to be collected; and
- (q) any other matter which has to be or may be prescribed.

49. Power to make regulations.—(1) The Corporation may, with the previous approval of the ¹[Federal Government] by notification in the official Gazette, make regulations not inconsistent with this Order and the rules made thereunder to provide for all matters for which provision is expedient for the purpose of giving effect to the provisions of this Order.

(2) In particular and without prejudice to the generality of foregoing power, such regulations may provide for—

- (a) the powers and functions of a Corporation which may be delegated to its officers;
- (b) the method for recruitment of employees and agents and employers of agents of a Corporation and the terms and conditions of service of such employees or agents or employers of agents;
- (c) the manner in which the funds of a Corporation shall be maintained;
- (d) the maintenance of separate funds and accounts each of the regional and zonal offices of a Corporation;
- (e) the conduct of business at meetings of the Board of Directors of a Corporation;
- (f) the formation of the committee of a Corporation and delegation of powers and functions of the Corporation to such committees;

¹Subs. by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of 1973), s. 2, for “Central Government”.

- (g) the form and manner in which policies may be issued and contracts binding on a Corporation may be executed;
- (h) the classification of policies, whether issued by a Corporation or by any insurer whose life insurance business has been transferred to and vested in the Corporation, for the purpose of declaring differential bonuses; wherever necessary;
- (i) the method of constitution of committees at zonal and regional offices;
- (i) the number, terms of office and conditions of service of members of committees constituted at zonal and regional offices;
- (k) the territorial limits of each zonal or regional office and the business to be transacted in each zone or region;
- (l) the manner in which and the intervals at which the accounts of the various zonal, regional and other offices may be drawn up and their accounts audited; and
- (m) the conditions subject to which any payment may be made by a Corporation.

50. Removal of difficulties. If any difficulty arises in giving effect to any of the provisions of this Order, the ¹[Federal Government] may make such order, not inconsistent with the provisions of this Order, as may appear to it to be necessary for the purpose of removing the difficulty:

Provided that no such power shall be exercised after the expiry of one year from the commencement of this Order.

THE PAKISTAN CODE

¹Subs. by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of 1973), s. 2, for "Central Government".

THE SCHEDULE

(See Article 39)

PRINCIPLES FOR DETERMINING COMPENSATION

PART I

1.— The compensation to be given to an insurer having a share capital, other than an insurer incorporated outside Pakistan shall, at his option, be—

- (i) twenty times the allocation to the shareholders from the annual average surplus, multiplied by a figure referred to in paragraph 3, or
- (ii) the amount of the paid-up capital of the insurer:

Provided that, if the liability to the holders of life insurance policies as at the 31st December, 1970, computed on the basis laid down by the Controller of Insurance under sub-section (7) of section 13 of the Act exceeds the life fund as shown in the accounts maintained in accordance with the Third schedule to the Act as at that date, the compensation payable shall be reduced by an amount equal to the difference as at that date between such liability and the life fund.

2.— (1) The annual average surplus shall be the amount arrived at by dividing the total of the surplus for the years covered by the aggregate period of actuarial investigation referred to in subparagraph (2), reduced by any surplus carried forward unallocated from the previous period of actuarial investigation, by the number of years so covered.

(2) The aggregate period of actuarial investigation shall be ¹[the minimum period ending on the latest possible date coincident with or earlier than the 31st December, 1970, which is].

- (i) not less than six years in the case of an insurer carrying on life insurance business since before the 1st January, 1966, in respect of which there has been actuarial investigation for not less than two periods; and
- (ii) not less than three years in the case of an insurer who commenced life insurance business on or after the 1st January, 1966, in respect of which there has been actuarial investigation for one or more periods.

(3) For the purpose of this paragraph, “surplus” means the surplus as shown in the valuation balance sheet required to be prepared in Form I in part II of the Fourth Schedule to the Act.

3.— (1) The figure by which twenty times the allocation to the shareholders is required by clause (i) of paragraph 1 to be multiplied shall be—

¹ Ins, by the Life Insurance (Nationalisation) (Amdt.) Act, 1973 (67 of 1973), s. 7.

- (i) in the case of an insurer who commenced life insurance business before the 1st January, 1966, ^{1***} the figure which represents the proportion that the total of the business in force at the end of each of such number of calendar years ending with 1969 as is equivalent to the number of years covered by the aggregate period of actuarial investigation referred to in clause (i) of sub- paragraph (2) of paragraph 2 bears to the total of the business in force at the end of each of the calendar years comprised in that aggregate period of actuarial investigation;
- (ii) in the case of an insurer who commenced life insurance business on or after the 1st January, 1966, the figure which represents the proportion that the total of the business in force at the end of each of such number of calendar years ending with 1969 as is equivalent to the number of years covered by the aggregate period of actuarial investigation referred to in clause (ii) of sub- paragraph (2) of paragraph 2 bears to the total of the business in force at the end of each of the calendar years comprised in that aggregate period of actuarial investigation.

(2) For the purpose of this paragraph, business in force at the end of a calendar year means the total ²[sum insured and bonuses under ordinary policies as] at the end of that years as shown in the statement in Form DD in Part II of the Third Schedule to the Act.

4. For the purpose of clause (i) paragraph 1, the actual allocation to shareholders shall be deemed to be 5% of such surplus if the actual allocation is less than 5% and, for the purpose of clause (ii) of that paragraph, “paid-up capital” of an insurer incorporated in Pakistan means such part of the paid-up capital as is shown to have been allocated to life insurance business in the balance sheet in form A in Part II of the First Schedule to the Act required to be furnished to the Controller of Insurance under section 15 of the Act with reference to the years ending the 31st December, 1970.

PART II

5. The compensation to be given to an insurer having, no capital shall be ³[two] times the annual average surplus as computed in the manner laid down in paragraph 2 and shall be distributed amongst the holders of the policies of the insurer in the shape of addition to the sum insured under each policy, the addition being made to participating and non-participating policies in such manner as the ⁴[Federal Government] may direct.

PART III

The compensation to be given to an insurer incorporated outside Pakistan whose paid-up capital is held outside Pakistan shall be twenty times the allocation to the shareholders from the annual average surplus, as computed in the manner laid down in paragraph 2.

7. If the annual average surplus of an insurer incorporated outside Pakistan, as computed in the manner laid down in paragraph 2, contains any part of surplus arising out of business in respect of which an order under clause (3) of Article 34 has been made, the annual average surplus shall, for the purpose of determining the compensation to be given to the insurer, be reduced by a figure which represents the proportion that the business in force in Pakistan at the 31st December, 1971, less the business in respect of which such order has been made, bears to the total business in force in Pakistan as at that day.

¹The words “and whose last actuarial investigation was completed before the 1st January, 1970,” omitted *ibid.*

²Subs. by the Life Insurance (Nationalisation) (Amdt) Act, 1973 (67 of 1973), s. 7, for “Life Insurance business in force”.

³Subs by the Life Insurance (Nationalisation) (Amdt.) Act. 1973 (67 of 1973), 7. for twenty”

⁴Subs. *ibid.*, s. 2, for “Central Government”.