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c 190 Insurance Act

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CHAPTER 190

The Insurance Act

INTERPRETATION

1. In this Act, except where inconsistent with the interpretation sections of any Part,

1. “accident insurance” means insurance by which the insurer undertakes, otherwise than incidentally to some other class of insurance defined by or under this Act, to pay insurance money in the event of accident to the person or persons insured, but does not include insurance by which the insurer undertakes to pay insurance money both in the event of death by accident and in the event of death from any other cause;

2. “adjuster” means a person who,

i. on behalf of an insurer or an insured, for compensation, directly or indirectly solicits the right to negotiate the settlement of or investigate a loss or claim under a contract or a fidelity, surety or guaranty bond issued by an insurer, or investigates, adjusts or settles any such loss or claim, or

ii. holds himself out as an adjuster, investigator, consultant or adviser with respect to the settlement of such losses or claims,

but does not include,

iii. a barrister or solicitor acting in the usual course of his profession;

iv. a trustee or agent of the property insured,

v. a salaried employee of a licensed insurer while acting on behalf of such insurer in the adjustment of losses,

vi. a person who is employed as an appraiser, engineer or other expert solely for the purpose of giving expert advice or evidence, or

vii. a person who acts as an adjuster of marine losses only;
3. "agent" means a person who, for compensation, not being a duly licensed insurance broker or not being a person acting under the authority of subsection 15, 16, 17 or 18 of section 315, solicits insurance on behalf of an insurer or transmits, for a person other than himself, an application for or a policy of insurance to or from such insurer or offers or assumes to act in the negotiation of such insurance or in negotiating its continuance or renewal;

4. "aircraft insurance" means insurance against loss of or damage to an aircraft and against liability for loss or damage to persons or property caused by an aircraft or by the operation thereof;

5. "appeal" includes a judicial revision or review of a judgment, decision, order, direction, determination, finding or conviction, and a case stated or reserved, and a removal of proceedings by way of certiorari or otherwise;

6. "automobile" includes all self-propelled vehicles, their trailers, accessories and equipment, but not railway rolling stock, watercraft or aircraft of any kind;

7. "automobile insurance" means insurance against liability for loss or damage to persons or property caused by an automobile or the use or operation thereof, and against loss of or damage to an automobile;

8. "beneficiary" means a person designated or appointed as one to whom or for whose benefit insurance money is to be payable;

9. "boiler and machinery insurance" means insurance against loss or damage to property and against liability for loss or damage to persons or property through the explosion, collapse, rupture or breakdown of, or accident to, boilers or machinery of any kind;

10. "broker" means a person who, for compensation, not being a licensed agent or not being a person acting under the authority of subsection 15, 16, 17 or 18 of section 315, acts or aids in any manner in negotiating contracts of insurance or placing risks or effecting insurance or in negotiating the continuance or renewal of such contracts for a person other than himself;
11. "cash-mutual corporation" means a corporation without share capital or with guarantee capital stock subject to repayment by the corporation, in respect of which the dividend rate is limited by its Act or instrument of incorporation, that is empowered to undertake insurance on both the cash plan and the mutual plan;

12. "chief agency" means the principal office or place of business in Ontario of any licensed insurer having its head office out of Ontario;

13. "contract" means a contract of insurance, and includes a policy, certificate, interim receipt, renewal receipt, or writing evidencing the contract, whether sealed or not, and a binding oral agreement;

14. "credit insurance" means insurance against loss to the insured through the insolvency or default of a person to whom credit is given in respect of goods, wares or merchandise;

15. "Department" means the Department of Insurance of Ontario;

16. "disability insurance" means insurance undertaken by an insurer as part of a life insurance contract whereby the terms of the policy provide for the duration of such insurance for more than one year and for the payment of insurance money or the granting of benefits in the event that the insured becomes disabled as a result of bodily injury or disease;

17. "double indemnity insurance" means insurance undertaken by an insurer as part of a life insurance contract whereby the terms of the policy provide for the duration of such insurance for more than one year and for payment only in the event of the death of the insured by accident of an additional amount of insurance money not exceeding the amount payable in the event of death from other causes;

18. "due application" includes such information, evidence and material as the Superintendent requires to be furnished, and also the payment of the fees herein-after prescribed in respect of any application, certificate or document required or issued by virtue of this Act;

19. "employers' liability insurance" means insurance (not being insurance incidental to some other class of
insurance defined by or under this Act) against loss to an employer through liability for accidental injury to or death of an employee arising out of or in the course of his employment, but does not include workmen’s compensation insurance;

20. “endowment insurance”, as applied to a fraternal society, means an undertaking to pay an ascertained or ascertainable sum at a fixed future date, if the person whose life is insured is then alive, or at his death, if he dies before such date;

21. “exchange” or “reciprocal or inter-insurance exchange” means a group of subscribers exchanging reciprocal contracts of indemnity or inter-insurance with each other through the same attorney;

22. “foreign jurisdiction” means a jurisdiction other than Ontario;

23. “fire insurance” means insurance (not being insurance incidental to some other class of insurance defined by or under this Act) against loss of or damage to property through fire, lightning or explosion due to ignition;

24. “fraternal society” means a society, order or association incorporated for the purpose of making with its members only and not for profit, contracts of life, accident or sickness insurance under which benefits may be paid only to its members or their beneficiaries in accordance with its constitution and laws and this Act;

25. “governing executive authority” means the executive committee, executive board, management committee, grand executive committee or such other board, committee or body as is charged under the constitution and rules of a fraternal society with its general management between general meetings; R.S.O. 1950, c. 183, s. 1, pars. 1-25.

26. “guarantee insurance” means the undertaking to perform an agreement or contract or to discharge a trust, duty or obligation upon default of the person liable for such performance or discharge or to pay money upon such default or in lieu of such performance or discharge, or where there is loss or damage through such default, but does not include credit insurance; R.S.O. 1950, c. 183, s. 1, par. 26; 1957, c. 51, s. 1 (1).
27. "hail insurance" means insurance against loss of or damage to growing crops caused by hail;

28. "head office" means the place where the chief executive officer of an insurer transacts his business;

29. "industrial contract" means a contract of life insurance for an amount not exceeding $2,000, exclusive of any benefit, surplus, profit, dividend or bonus also payable under the contract, and that provides for payment of premiums at fortnightly or shorter intervals, or, if the premiums are usually collected at the home of the insured, at monthly intervals;

30. "inland transportation insurance" means insurance (other than marine insurance) against loss of or damage to property,
   i. while in transit or during delay incidental to transit, or
   ii. where, in the opinion of the Superintendent, the risk is substantially a transit risk;

31. "insurance" means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event;

32. "insurance fund" or "insurance funds", as applied to a fraternal society or as applied to a corporation not incorporated exclusively for the transaction of insurance, includes all money, securities for money and assets appropriated by the rules of the society or corporation to the payment of insurance liabilities or appropriated for the management of the insurance branch or department or division of the society, or otherwise legally available for insurance liabilities, but does not include funds of a trade union appropriated to or applicable for the voluntary assistance of wage earners unemployed or upon strike;

33. "insurance money" means the amount payable by an insurer under a contract, and includes all benefits, surplus, profits, dividends, bonuses, and annuities payable under the contract;

34. "insurance on the cash plan" means any insurance that is not mutual insurance;

35. "insurer" means the person who undertakes or agrees or offers to undertake a contract;
36. "life insurance" means insurance whereby the insurer undertakes to pay insurance money on death, or on the happening of any contingency dependent on human life, or whereby the insurer undertakes to pay insurance money subject to the payment of premiums for a term depending on human life, but, except to the extent of double indemnity insurance, does not include insurance payable in the event of death by accident only;

37. "live stock insurance" means insurance (not being insurance incidental to some other class of insurance defined by or under this Act) against loss through the death or sickness of or accident to an animal;

38. "lodge" includes a primary subordinate division, by whatever name known, of a fraternal society;

39. "marine insurance" means insurance against marine losses, that is to say, the losses incident to marine adventure, and may by the express terms of a contract or by usage of trade extend so as to protect the insured against losses on inland waters or by land or air that are incidental to a sea voyage;

40. "Minister" means the member of the Executive Council charged for the time being by the Lieutenant Governor in Council with the administration of this Act;

41. "mutual benefit society" means a mutual corporation formed for the purpose of providing sick and funeral benefits for its members, or for these and any other purposes necessary or incidental thereto except life insurance, but does not include a pension fund or employees' mutual benefit society incorporated under or subject to The Corporations Act;

42. "mutual corporation" means a corporation without share capital or with guarantee capital stock subject to repayment by the corporation, in respect of which the dividend rate is limited by its Act or instrument of incorporation, that is empowered to undertake mutual insurance exclusively;

43. "mutual insurance" means a contract of insurance in which the consideration is not fixed or certain at the time the contract is made and is to be determined at the termination of the contract or at fixed periods during the term of the contract according to the experience of the insurer in respect of all similar contracts, whether or not the maximum amount of such consideration is predetermined;
44. "officer" includes a trustee, director, manager, treasurer, secretary or member of the board or committee of management of an insurer and a person appointed by the insurer to sue and be sued in its behalf;

45. "paid in", when applied to the capital stock of an insurer or to any shares thereof, means the amount paid to the insurer on its shares, not including the premium, if any, paid thereon, whether such shares are or are not fully paid;

46. "paid up", when applied to the capital stock of an insurer or to any shares thereof, means the capital stock or shares on which there remains no liability, actual or contingent, to the issuing insurer;

47. "pension fund association" means a company, corporation or association incorporated before the year 1910, under or by virtue of any law of the Province of Quebec, for the purpose of providing a pension for those persons who have contributed to a fund therefor during a certain number of years, and includes any auxiliary funds incorporated for the purpose of guaranteeing the repayment of any sum to those who contributed to such pension fund during a certain number of years, or for the purpose of assuring a life pension to those contributing a sum of money to such pension fund, or for these and similar purposes;

48. "plate glass insurance" means insurance (not being insurance incidental to some other class of insurance defined by or under this Act) against loss of or damage to plate, sheet or window glass, whether in place or in transit;

49. "policy" means the instrument evidencing a contract;

50. "premium" means the single or periodical payment under a contract for the insurance, and includes dues, assessments and other considerations;

51. "premium note" means an instrument given as consideration for insurance whereby the maker undertakes to pay such sum or sums as may be legally demanded by the insurer, but the aggregate of which sums does not exceed an amount specified in the instrument;

52. "property" includes profits, earnings and other pecuniary interests, and expenditure for rents, interest, taxes and other outgoings and charges and in respect of inability to occupy the insured premises,
but only to the extent of express provision in the contract;

53. "property damage insurance" means insurance against loss of or damage to property that is not included in or incidental to some other class of insurance defined by or under this Act;

54. "public liability insurance" means insurance against loss or damage to the person or property of others that is not included in or incidental to some other class of insurance defined by or under this Act;

55. "regulations" means the regulations made under this Act; R.S.O. 1950, c. 183, s. 1, pars. 27-55.

56. "salesman" means a person who is employed by a licensed insurance agent or broker on a stated salary that is not supplemented by commission, bonus or any other remuneration to solicit insurance or transact, for a person other than himself, an application for a policy of insurance, or to act in the negotiation of such insurance or in negotiating its continuance or renewal, or collects and receives premiums on behalf of his employer only, but does not include a licensed insurance agent, broker or employee engaged solely in office duties for an agent or broker or a person acting under the authority of subsection 15, 16 or 17 of section 315; 1951, c. 39, s. 1.

57. "sick and funeral benefits" includes insurance against sickness, disability or death under which the moneys payable upon the happening of sickness, disability or death do not exceed the limits prescribed by section 294;

58. "sickness insurance" means insurance by which the insurer undertakes to pay insurance money in the event of sickness of the person or persons insured, but does not include disability insurance;

59. "sprinkler leakage insurance" means insurance against loss of or damage to property through the breakage or leakage of sprinkler equipment or other fire protection system, or of pumps, water pipes or plumbing and its fixtures;

60. "Superintendent" means the Superintendent of Insurance, and includes the Deputy Superintendent of Insurance;

61. "theft insurance" means insurance against loss or damage through theft, wrongful conversion, burglary,
house-breaking, robbery or forgery; R.S.O. 1950, c. 183, s. 1, pars. 56-60.

62. “title insurance” means insurance against loss or liability for loss due to the invalidity of the title to any property or of any instrument, or to any defect in such title or instrument; 1957, c. 51, s. 1 (2).

63. “upon proof”, as applied to any matter connected with the licensing of an insurer or other person, means upon proof to the satisfaction of the Superintendent;

64. “weather insurance” means insurance against loss or damage through windstorm, cyclone, tornado, rain, hail, flood or frost, but does not include hail insurance;

65. “workmen's compensation insurance” means insurance of an employer against the cost of compensation prescribed by statute for bodily injury, disability or death of a workman through accident or disease arising out of or in the course of his employment. R.S.O. 1950, c. 183, s. 1, pars. 61-63.

PART I

SUPERINTENDENT AND HIS DUTIES

2. The Department of Insurance shall be presided over by the Minister. R.S.O. 1950, c. 183, s. 2.

3.-(1) The Superintendent of Insurance shall be appointed by the Lieutenant Governor in Council and is the deputy head of the Department.

(2) The Superintendent has general supervision of the business of insurance in Ontario and he shall see that the laws relating to the conduct thereof are enforced and obeyed and shall examine and report to the Minister from time to time upon all matters connected with insurance.

(3) The Lieutenant Governor in Council may appoint a Deputy Superintendent of Insurance who shall act as superintendent during the absence or inability of the Superintendent and shall perform such other duties as are assigned to him by this Act, by the Lieutenant Governor in Council, by the Minister or by the Superintendent. R.S.O. 1950, c. 183, s. 3.

4. For the purposes of his duties and in the exercise of his powers under this Act or under any other Act relating to
insurance, the Superintendent may require to be made and may take and receive affidavits, statutory declarations and depositions, and may examine witnesses upon oath, and he has the same power to summon persons to attend as witnesses, and to enforce their attendance, and to compel them to produce books, documents and things, and to give evidence as any court has in civil cases. R.S.O. 1950, c. 183, s. 4.

5. An oath required by this Act to be taken may be administered and certified to by the Superintendent or by any person authorized to administer oaths in Ontario. R.S.O. 1950, c. 183, s. 5.

6. Neither the Superintendent nor any officer under him shall be interested as a shareholder, directly or indirectly, in any insurance company doing business in Ontario. R.S.O. 1950, c. 183, s. 6.

7.—(1) Without a fiat of the Attorney General, no action or proceeding shall be brought or taken against the Superintendent for anything done or omitted in the performance or intended or supposed performance of his duty under this Act, or under any other Act that imposes duties upon him.

(2) The Superintendent may bring actions and institute proceedings in his name of office for the enforcement of any of the provisions of this Act or for the recovery of fees and penalties payable under this Act.

(3) No action or proceeding for the recovery of fees and penalties payable under this Act shall be commenced without the leave of the Superintendent. R.S.O. 1950, c. 183, s. 7.

8.—(1) The Superintendent shall keep in the Department the following books and records:

1. A register of all licences issued under this Act, in which shall appear the name of the insurer, the address of the head office, the address of the principal office in Canada, the name and address of the chief or general agent in Ontario, the number of the licence issued, particulars of the classes of insurance for which the insurer is licensed, and such other information as the Superintendent deems necessary.

2. A record of all securities deposited by each insurer with the Minister, naming in detail the several securities, their par value, their date of maturity and value at which they are received as deposit.

3. A record of all claims of which notice of dispute has been filed under this Act.
(2) The books and records required by this section to be kept in the Department shall be open to inspection at such times and upon payment of such fees as are prescribed by the regulations. R.S.O. 1950, c. 183, s. 8.

9.—(1) The Superintendent shall cause to be published in the Ontario Gazette in July of each year a list of the insurers licensed at the date of the list, and shall from time to time cause notice of the licence of an insurer not theretofore licensed and notice of suspension or cancellation or revivor of licence to be given by publication in The Ontario Gazette.

(2) A certificate under the hand and seal of office of the Superintendent that on a stated day an insurer mentioned therein was or was not licensed under this Act, or that any insurer was originally admitted to licence, or that the licence of any insurer was renewed, suspended, revived, revoked or cancelled on a stated day, is admissible in evidence as prima facie proof of the facts stated in the certificate.

(3) A certificate of the filing of any document required by this Act or any predecessor thereof to be filed in the office of the Provincial Registrar or of the Superintendent is admissible in evidence as prima facie proof of the filing if signed or purporting to be signed by the Deputy or Assistant or by the acting Deputy or Assistant Provincial Registrar or by the Superintendent, as the case may be. R.S.O. 1950, c. 183, s. 9.

10. The duty of determining the right of any insurer in Ontario to be licensed under this Act devolves upon the Superintendent, subject to appeal as hereinafter provided, but nothing in this section affects the right of the Lieutenant Governor in Council or of the Minister to suspend or cancel any licence in the exercise of his authority under this Act. R.S.O. 1950, c. 183, s. 10.

11.—(1) Every decision of the Superintendent upon an application for a licence shall be in writing and notice thereof shall be forthwith given to the insurer.

(2) The insurer, or any person interested, is entitled, upon payment of the prescribed fee, to a certified copy of the decision.

(3) The evidence and proceedings in any matter before the Superintendent may be reported by a stenographer sworn before the Superintendent to faithfully report the same. R.S.O. 1950, c. 183, s. 11.

12.—(1) An applicant for a licence under this Act or any person who deems himself aggrieved by a decision of the Superintendent may appeal therefrom to the Court of Appeal.
(2) The appeal shall be set down for argument at the first sitting of the Court of Appeal that commences after the expiration of thirty days from the decision complained of.

Procedure

(3) The practise and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action.

Certificate

(4) The Superintendent shall certify to the registrar of the Court of Appeal the decision appealed from, his reasons therefor, and the documents, inspection reports and evidence, if any, and such other information as he had before him in making his decision. R.S.O. 1950, c. 183, s. 12.

Consequences of failure to answer inquiries

13. The Superintendent may direct to an insurer any inquiry touching the contracts or financial affairs of the insurer, and the insurer shall make prompt and explicit answer to any such inquiry, and, in case of refusal or neglect to answer, is guilty of an offence. R.S.O. 1950, c. 183, s. 13.

Access to books

14. The Superintendent, or any person authorized under his hand or seal of office, shall, at all reasonable times, have access to all the books, securities and documents of an insurer, agent or broker that relate to contracts of insurance, and any officer or person in charge, possession, custody or control of such books, securities or documents who refuses or neglects to afford such access is guilty of an offence. R.S.O. 1950, c. 183, s. 14.

Duty to furnish information on request

15.—(1) It is the duty of the officers and agents of a licensed insurer, and of persons licensed under this Act, or of any insured, to furnish the Superintendent on his request with full information relating to any contract of insurance issued by the insurer or to the insured that comes within the terms of sections 90 and 140 or relative to any settlement or adjustment under any such contract.

(2) The Minister may, in his discretion, instruct the Superintendent to visit the head office or chief agency from which the contract was issued, or the office of the adjuster, and inquire into such contract or settlement, and section 14 applies mutatis mutandis to such inquiry. R.S.O. 1950, c. 183, s. 15.

Annual inspection of insurers

16.—(1) The Superintendent shall visit personally, or cause a duly qualified member of his staff to visit, at least annually, the head office or chief office in Ontario of every licensed insurer, other than a mutual benefit society having fewer than 300 members and an insurer as to which he adopts the inspection of some other government, and he shall examine the statements of the condition and affairs of each such
insurer filed under this Act, and make such inquiries as are necessary to ascertain its condition and ability to provide for the payment of its contracts as they mature and whether or not it has complied with all the provisions of this Act applicable to its transactions, and the Superintendent shall report thereon to the Minister as to all matters requiring his attention and decision.

(2) Where the head office of such an insurer is not in Ontario and the Superintendent deems it necessary and expedient to make a further examination into its affairs and so reports to the Minister, the Minister may, in his discretion, instruct the Superintendent to visit the head office of such insurer to inspect and examine its affairs and to make such further inquiries as the Minister requires.

(3) The officers and agents of such insurer shall cause the books and records of the insurer to be opened for the inspection of the Superintendent and shall otherwise facilitate such examination so far as it is in their power.

(4) In order to facilitate the inspection of the books and records of an insurer, the insurer may be required by the Superintendent with the approval of the Minister, to produce the books and records at the head office or chief office in Ontario of the insurer or at such other convenient place as the Superintendent directs, and the officer or officers of the insurer who have custody of the books and records are entitled to be paid by the insurer for the actual expenses of such attendance.

(5) The Superintendent, with the approval of the Minister, may cause abstracts to be prepared of the books and vouchers and a valuation to be made of the assets or liabilities of any such insurer and the cost thereof upon the certificate of the Superintendent approved by the Minister shall be paid by the insurer.

(6) Where the office of an insurer at which an examination is made under this section is out of Ontario, the insurer shall pay the account of the Department in connection with such examination upon the certificate of the Superintendent approved by the Minister. R.S.O. 1950, c. 183, s. 16.

17.—(1) Where the head office of a licensed insurer is situate out of Ontario, notice or process in any action or proceeding in Ontario may be served upon the Superintendent and such service shall be deemed service upon the insurer in the case of a corporation and upon members of the insurer in the case of an unincorporated body or association.

(2) Every licensed insurer shall file in the office of the Superintendent notice of a post office address to which any
such notice or process may be forwarded by the Superintendent and shall from time to time notify the Superintendent of any change in the address so filed.

(3) The Superintendent shall forthwith after the receipt of any such notice or process forward it to the insurer by registered mail addressed in the manner last notified to him for this purpose by the insurer. R.S.O. 1950, c. 183, s. 17.

18.—(1) The Superintendent shall prepare for the Minister, from the statements filed by the insurers and from any inspection or inquiries made, an annual report, showing particulars of the business of each insurer as ascertained from such statement, inspection and inquiries, and such report shall be printed and published forthwith after completion.

(2) In his annual report the Superintendent shall allow as assets only such of the investments of the several insurers as are authorized by The Corporations Act, or by their Acts or instruments of incorporation, or by the general Acts applicable to such investments.

(3) In his annual report the Superintendent shall make all necessary corrections in the annual statements made by all licensed insurers as provided in this Act, and he is at liberty to increase or diminish the liabilities of such insurers to the true and correct amounts thereof as ascertained by him in the examination of their affairs at the head office thereof in Ontario, or otherwise.

(4) If it appears to the Superintendent, or if he has any reason to suppose, from the annual statements prepared and delivered to him by all insurers that the value placed by any insurer, incorporated and licensed in Ontario, upon the real estate owned by it or any parcel thereof is too great, he may either require such insurer to secure an appraisement of such real estate by one or more competent valuators, or may himself procure such appraisement at the expense of the insurer, and the appraised value, if it varies materially from the statement or return made by the insurer, may be substituted in the annual report of the Superintendent.

(5) In like manner, if it appears to the Superintendent, or if he has any reason to suppose, that the amount secured by mortgage or hypothec upon any parcel of real estate, together with the interest due and accrued thereon, is greater than the value of the parcel, or that the parcel is not sufficient for the loan and interest, he may procure an appraisement thereof and, if from the appraised value it appears that the parcel is not adequate security for the loan and interest, he may write off the loan and interest a sum sufficient to reduce the loan to
such an amount as may fairly be realizable from the security, in no case to exceed the appraised value, and he may insert the reduced amount in his annual report.

(6) In like manner, if it appears to the Superintendent, or if he has any reason to suppose, that the value of any other investment of the funds of the insurer is less than the amount of the value of the investments shown in the books of the insurer, he may make or cause to be made an appraisal of the security, and, if from the appraised value it appears that the value of the security as shown on the books of the insurer is greater than its true value as shown by the appraisal, he may reduce the book value of the security to such amount as may fairly be realizable from the security, in no case to exceed the appraised value, and he may insert the reduced amount in his annual report. R.S.O. 1950, c. 183, s. 18.

19. Upon request by the Minister, the Superintendent shall prepare for the consideration of the Lieutenant Governor in Council a report upon the petition of an insurer, praying to have its bonds authorized by order in council for acceptance in lieu of personal or private suretyship pursuant to any Act of Ontario wherein or whereby the Lieutenant Governor in Council is empowered to authorize the giving or acceptance of securities or of the personal bonds of sureties, and in such report the Superintendent shall set out all material facts relating to the age, paid-up capital, surplus of assets over liabilities, underwriting experience and generally such other information relating to the financial condition and standing of the insurer as, in his opinion, should govern the granting or refusal of the petition. R.S.O. 1950, c. 183, s. 19.

PART II

GENERAL PROVISIONS APPLICABLE TO INSURERS

20.—(1) This Part applies to insurance undertaken in Ontario and to all insurers carrying on business in Ontario.

(2) An insurer undertaking a contract of insurance that under this Act is deemed to be made in Ontario, whether the contract is original or renewed, except the renewal from time to time of life insurance policies, shall be deemed to be undertaking insurance in Ontario within the meaning of this Part.

(3) An insurer undertaking insurance in Ontario or that in Ontario sets up or causes to be set up a sign containing the
name of an insurer, or that in Ontario maintains or operates, either in its own name or in the name of its agent or other representative, an office for the transaction of the business of insurance either in or out of Ontario, or that in Ontario distributes or publishes or causes to be distributed or published any proposal, circular, card, advertisement, printed form or like document, or that in Ontario makes or causes to be made any written or oral solicitation for insurance, or that in Ontario issues or delivers any policy of insurance or interim receipt or collects or receives or negotiates for or causes to be collected or received or negotiated for any premium for a contract of insurance or inspects any risk or adjusts any loss under a contract of insurance, or that prosecutes or maintains in Ontario an action or proceeding in respect of a contract of insurance, or a club, society or association incorporated or unincorporated that receives, either as trustees or otherwise, contributions or moneys from its members out of which gratuities or benefits are paid directly or indirectly upon the death of its members, or any of them, shall be deemed to be an insurer carrying on business in Ontario within the meaning of this Act. R.S.O. 1950, c. 183, s. 20.

21.—(1) Every insurer undertaking insurance in Ontario or carrying on business in Ontario shall obtain from the Minister and hold a licence under this Act.

(2) Every insurer undertaking insurance or carrying on business in Ontario without having obtained a licence as required by this section is guilty of an offence.

(3) A person who in Ontario does or causes to be done any act or thing mentioned in subsection 3 of section 20 on behalf of or as agent of an insurer not licensed under this Act or who receives directly or indirectly any remuneration for so doing is guilty of an offence.

(4) The following shall not be deemed insurers within the meaning of this Act or required or entitled to be licensed as such:

1. Pension fund societies or employees' mutual benefit societies incorporated under The Corporations Act.

2. Corporations mentioned in paragraphs 3 and 4 of section 265.

3. A trade union in Ontario that under the authority of its incorporating Act or charter has an assurance...
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or benefit fund for the benefit of its own members exclusively.

4. Mutual benefit societies whose memberships are confined to railway employees and that do not grant mortuary or funeral benefits.

(5) An insurer incorporated and licensed by Ontario that carries on or solicits business in any foreign jurisdiction without being first authorized so to do under the laws of the foreign jurisdiction is guilty of an offence. R.S.O. 1950, c. 183, s. 21.

22. Nothing in this Act prevents a licensed insurer that has lawfully effected a contract of insurance in Ontario from reinsuring the risk or part thereof with an insurer transacting business out of Ontario and not licensed under this Act. R.S.O. 1950, c. 183, s. 22.

23.—(1) Upon due application and upon proof of compliance with this Act, the Minister may issue a licence to undertake contracts of insurance and carry on business in Ontario to any insurer coming within one of the following classes:

1. Joint stock insurance companies.
2. Mutual insurance corporations.
3. Cash-mutual insurance corporations.
4. Fraternal societies.
5. Mutual benefit societies.
6. Companies duly incorporated to undertake insurance contracts and not within classes 1 to 5.
7. Reciprocal or inter-insurance exchanges.
8. Underwriters or syndicates of underwriters operating on the plan known as Lloyds.

(2) A licence issued under this Act authorizes the insurer named therein to exercise in Ontario all rights and powers reasonably incidental to the carrying on of the business of insurance named therein that are not inconsistent with this Act or with its Act or instrument of incorporation or organization. R.S.O. 1950, c. 183, s. 23.

24.—(1) The Lieutenant Governor in Council may make regulations determining and defining classes of insurance for the purposes of this Act and of licences granted to insurers under this Act.
(2) Subject to the provisions of the Parts of this Act that particularly relate to the classes of insurers mentioned in section 23, a licence may be granted to an insurer to carry on any one or more of the classes of insurance defined in section 1 and such other classes as are prescribed by the regulations.

(3) For the purposes of this Act, the Superintendent may determine the class or classes of insurance into which the circumstances or conditions in any case may bring any insurance granted or that may be granted in respect thereto, and the policy form for the class of insurance to be used thereunder.

(4) Any licence may be issued subject to such limitations and conditions as the Minister prescribes. R.S.O. 1950, c. 183, s. 24.

25. It shall be a condition of a licence to carry on automobile insurance in Ontario, for breach of which such licence may be cancelled, that, in any action or proceeding in Ontario against a licensed insurer, or its insured, arising out of a motor vehicle accident in Ontario, such insurer shall appear and shall not set up any defence to a claim under a policy issued out of Ontario that might not be set up if such policy were issued in Ontario in accordance with the law of Ontario relating to motor vehicle liability policies. R.S.O. 1950, c. 183, s. 25.

26. Every insurer licensed for the transaction of life insurance may, under the authority of its licence, unless the licence expressly provides otherwise, issue annuities and endowments of all kinds and also include in any policy of life insurance, in respect of the same life or lives insured thereby, disability insurance and double indemnity insurance. R.S.O. 1950, c. 183, s. 26.

27.—(1) Every insurer licensed to carry on fire insurance may, subject to its Act of incorporation and subject to the restrictions prescribed by the licence, insure or reinsure any property in which the insured has an insurable interest against loss or damage by fire, lightning or explosion and may insure or reinsure the same property against loss or damage from falling aircraft, earthquake, windstorm, tornado, hail, sprinkler leakage, riot, malicious damage, weather, water damage, smoke damage, civil commotion and impact by vehicles and any one or more perils falling within such other classes of insurance as are prescribed by the regulations.

(2) An insurer licensed to carry on fire insurance may insure an automobile against loss or damage under a policy falling within Part IV of this Act, but, in the case of a purely
mutual fire insurance corporation, incorporated or licensed in Ontario and carrying on business on the premium note plan, the automobile shall be specifically insured under a policy separate from that insuring other property. 1956, c. 32, s. 1.

28. Every insurer licensed for the transaction of automobile insurance may, under the authority of its licence, unless the licence expressly provides otherwise, provide the restricted accident insurance authorized under section 220. 1951, c. 39, s. 2.

29.—(1) A licence shall not be granted,

(a) to a joint stock insurance company undertaking life insurance, unless the company furnishes to the Superintendent satisfactory evidence that of the capital stock not less than $200,000 has been bona fide subscribed for and allotted, and at least $100,000 of the subscribed stock has been paid in, in cash;

(b) to a joint stock insurance company undertaking any one or more classes of insurance other than life, except upon proof,

   (i) where the company is undertaking insurance in Ontario only, that of the capital stock not less than $50,000 has been bona fide subscribed and allotted, and at least $25,000 of the subscribed stock has been paid in, in cash, and

   (ii) where the company is undertaking insurance in Ontario and elsewhere, that of the capital stock not less than $100,000 has been bona fide subscribed and allotted, and at least $50,000 of the subscribed stock has been paid in, in cash.

(2) A licence shall not be granted to a mutual insurance corporation, a cash-mutual insurance corporation, an insurance company mentioned in paragraph 6 of subsection 1 of section 23, a reciprocal or inter-insurance exchange, or to an underwriter or syndicate of underwriters operating on the plan known as Lloyds, except upon proof that the net surplus of assets over all liabilities exceeds the amount fixed by subsection 1 for the paid in capital stock of joint stock insurance companies, and that such net surplus of assets over all liabilities together with the contingent liability of members, if any, exceeds the amount fixed by subsection 1 for the subscribed and allotted capital stock of joint stock insurance companies for the respective classes of insurance mentioned therein.

(3) Subsection 2 does not apply to a purely mutual insurance corporation incorporated under the law of Ontario and insuring only risks other than mercantile and manufacturing on the premium note plan.
(4) A licence shall not be granted to an insurer except upon proof that it has complied with the provisions of this Act and the regulations applicable to it.

(5) A licence shall not be granted to an insurer for the transaction of both fire and life insurance unless it maintains separate and distinct accounts, funds and securities in respect of its business of life insurance, and those funds and securities are available only for the protection of the holders of its policies of life insurance and are not liable for the payment of claims arising from any other class of insurance that it undertakes, and it complies with such other requirements as the Superintendent imposes for the purposes of this subsection.

(6) Where the head office of an applicant for a licence under this Act is situate out of Ontario, a licence shall not be granted except upon proof of its ability to provide for the payment at maturity of all its contracts, but the Superintendent may accept as sufficient the fact that it is licensed by any other government in Canada.

(7) A licence shall not be granted to a corporation that is incorporated under the law of a province other than Ontario unless its head office and chief place of business is situate in that province. R.S.O. 1950, c. 183, s. 28.

30. The Superintendent may require such notice of the application for a licence to be given by publication in The Ontario Gazette and elsewhere as he deems necessary. R.S.O. 1950, c. 183, s. 29.

31.—(1) Before the issue of a licence to an insurer, such insurer shall file in the office of the Superintendent the following documents:

1. A certified copy of its Act or other instrument of incorporation or association and of its constitution and by-laws and regulations verified in a manner satisfactory to the Superintendent.

2. A certified copy of its last balance sheet and auditor's report thereon.

3. If the head office of the insurer is out of Ontario, notice of the place where the chief office of the insurer in Ontario is to be situate.

4. Copies of all policy forms and forms of application for insurance proposed to be used by the insurer in Ontario.

5. Any evidence or documents required by other Parts of this Act.
(2) The applicant for a licence shall furnish such evidence as the Superintendent deems necessary that the requirements of this Act have been complied with and that the applicant is entitled to the licence applied for. R.S.O. 1950, c. 183, s. 30.

32.—(1) Upon application being made for a licence under this Act by an insurer incorporated after the 1st day of January, 1925 under any general or special Act of Ontario, there shall be submitted to the Superintendent a sworn statement setting forth the several sums of money paid in connection with the incorporation and organization of the insurer, and such statement shall, in addition, include a list of all unpaid liabilities, if any, in connection with or arising out of the incorporation and organization.

(2) Until the licence is granted, no payments on account of expenses of incorporation and organization shall be made out of the moneys paid in by shareholders, except reasonable sums for the payment of clerical assistance, legal services, office rental, advertising, stationery, postage and expense of travel, if any.

(3) The Minister shall not issue the licence until he is satisfied that all the requirements of this Act and of *The Corporations Act*, as to the subscriptions to the capital stock, the payment of money by shareholders on account of their subscriptions, the election of directors and other preliminaries have been complied with, and unless he is satisfied that the expenses of incorporation and organization, including the commission payable for the sale of the stock of the insurer, are reasonable. R.S.O. 1950, c. 183, s. 31.

33. An insurer that has applied for a licence and has complied with this Act and *The Corporations Act* is entitled to the licence. R.S.O. 1950, c. 183, s. 32.

34.—(1) Subject to section 304, the licence shall be in such form or forms for the different classes of insurers as are from time to time determined by the Minister, and shall specify the business to be carried on by the insurer.

(2) The licence expires on the 30th day of June in each year, and may be renewed from year to year or for any term less than a year. R.S.O. 1950, c. 183, s. 33.

35.—(1) Where written notice has been served on the Superintendent and upon proof of an undisputed claim arising from loss insured against in Ontario remaining unpaid for the space of sixty days after being due or of a disputed claim after final judgment in the regular course of law and tender of a legal, valid discharge being unpaid, the licence of the insurer is *ipso facto* void and shall be deemed to be cancelled.
(2) The licence may be revived and the insurer may again transact business if, within six months after notice to the Superintendent of the failure of the insurer to pay an undisputed claim or the amount of a final judgment as provided in this section, such undisputed claim or final judgment upon or against the insurer in Ontario is paid and satisfied. R.S.O. 1950, c. 183, s. 35.

36. When the insurer fails to keep unimpaired the deposit, if any, hereinafter required, the Minister may suspend or cancel the licence of the insurer. R.S.O. 1950, c. 183, s. 36.

37.—(1) If the Superintendent, upon examination, or from annual statements, or upon other evidence, finds that the assets of an insurer are insufficient to justify its continuance in business or to provide proper security to persons effecting insurance with it in Ontario or that it has failed to comply with any provision of law or with its Act or instrument of incorporation or association, he shall so report to the Minister. R.S.O. 1950, c. 183, s. 37 (1).

(2) If the Minister, after consideration of the report and after a reasonable time has been given to the insurer to be heard by him, and upon such further inquiry and investigation as he thinks proper to make, reports to the Lieutenant Governor in Council that he concurs in the report of the Superintendent, the Lieutenant Governor in Council may suspend or cancel the licence of the insurer.

(3) Notice of such suspension or cancellation shall be published in The Ontario Gazette and elsewhere as the Minister directs and thereafter any person transacting business on behalf of the insurer except for winding-up purposes is guilty of an offence.

(4) Where the Superintendent has reported as provided in subsection 1, the Minister or the Lieutenant Governor in Council may direct the issue of such modified, limited or conditional licence as is deemed necessary for the protection of persons in Ontario who have effected or effect contracts of insurance with the insurer.

(5) Upon the suspension or cancellation of the licence of an insurer by any government in Canada, the Superintendent may suspend or cancel the licence of such insurer under this Act. R.S.O. 1950, c. 183, s. 37 (3-6).

38. Where the licence of an insurer is suspended or cancelled under this Act, it may be revived if the insurer makes good the deposit, or the deficiency, as the case may be, to the satisfaction of the Minister. R.S.O. 1950, c. 183, s. 38.
39. It is the duty of the Superintendent to report to the Minister any contravention of this Act by any insurer licensed thereunder, and thereupon the Minister may, in his discretion, suspend or cancel or refuse to renew the insurer's licence. R.S.O. 1950, c. 183, s. 39.

DEPOSITS

40.—(1) Subject to subsections 2, 3 and 4, "insurer" in sections 41 to 73 shall be deemed to include only joint stock insurance companies, cash-mutual insurance corporations, insurance companies mentioned in paragraph 6 of subsection 1 of section 23, insurers that undertake life insurance except fraternal societies, and underwriters or syndicates of underwriters operating on the plan known as Lloyds. R.S.O. 1950, c. 183, s. 40 (1).

(2) Sections 41 to 45 do not apply to an insurer maintaining a reciprocal deposit with the government of another province under sections 68 to 73 or expressly exempted by order of the Lieutenant Governor in Council. R.S.O. 1950, c. 183, s. 40 (2); 1951, c. 39, s. 4.

(3) Sections 41 to 73 do not apply to an insurer in respect of its business of marine insurance.

(4) Sections 41 to 73 do not apply to an underwriter or syndicate of underwriters that is a member of the society known as Lloyds, incorporated by the Imperial Statute, Lloyds Act, 1871.

(5) In sections 41 to 73, "approved securities" means securities of or guaranteed by Canada or by any province of Canada, securities of an incorporated municipality of Canada, and such other securities as are authorized for the investment of trust funds under the law of the province in which they are offered for deposit and approved by the superintendent of insurance of the provinces of Canada in which the insurer is carrying on business. R.S.O. 1950, c. 183, s. 40 (3-5).

41.—(1) Every insurer carrying on the business of insurance in Ontario shall, before receiving a licence under this Act, deposit approved securities with the Minister in the following amounts:

1. Where the insurer undertakes life insurance—$50,000.

2. Where the insurer undertakes any one or more classes of insurance other than life,
   i. in Ontario only—$25,000.
   ii. in Ontario and elsewhere—$50,000. R.S.O. 1950, c. 183, s. 41 (1).
(2) The Superintendent may require the deposit referred to in subsection 1 to be increased, either before or after granting the licence, to such amount as he considers necessary. 1957, c. 51, s. 2 (1).

(3) An insurer may voluntarily make a deposit in excess of the amount prescribed by this section, but no part of a voluntary deposit shall be withdrawn without the sanction of the Minister. R.S.O. 1950, c. 183, s. 41 (2); 1957, c. 51, s. 2 (2).

(1) The value of such securities shall be estimated at their market value, not exceeding par, at the time they are deposited.

(2) If any other than approved securities are offered as a deposit, the Minister may accept them on such valuation and on such conditions as he deems proper.

(3) If the market value of any securities that have been deposited by an insurer declines below that at which they were deposited, the Minister may notify the insurer to make such further deposit as will ensure the accepted value of all the securities deposited by the insurer being equal to the amount that is required by this Act to be deposited.

(4) On failure by the insurer to make such further deposit within sixty days after being called upon so to do, the Minister may suspend or cancel the licence of the insurer.

(5) The property in any stock, bonds or debentures deposited with the Minister under this Act or any predecessor thereof is vested in the Minister by virtue of his office without any formal transfer while such stock, bonds or debentures form the whole or any part of the deposit required by this Act.

(6) So long as the conditions of this Act are satisfied and no notice of any final judgment against the insurer or order for its winding-up or for the distribution of its assets or for administration of its deposit is given to the Minister, the insurer is entitled to receive the interest upon the securities forming the deposit. R.S.O. 1950, c. 183, s. 42.

43. Where an insurer desires to substitute other approved securities for securities deposited, the Minister may permit the substitution to be made. R.S.O. 1950, c. 183, s. 43.

44.—(1) Where it is made to appear that an insurer, having made a deposit with the Minister, has made a deposit with any other government in Canada, the insurer is entitled, with the sanction of the Lieutenant Governor in Council, to withdraw the deposit with the Minister.
(2) If at any time it appears that an insurer has on deposit with the Minister under this Act a sum in excess of the prescribed amount, the Minister, upon being satisfied that the interest of persons effecting contracts of insurance with the insurer in Ontario will not be prejudiced thereby, and upon giving such notice in *The Ontario Gazette* and taking such other precautions as he deems expedient, may authorize the withdrawal of the amount of such excess or such portion thereof as he deems advisable, but the Minister may authorize such withdrawal without giving notice. R.S.O. 1950, c. 183, s. 44.

45.—(1) An insurer that has ceased to transact business in Ontario and desires to obtain a return of its deposit may give written notice to that effect to the Superintendent, and shall publish in *The Ontario Gazette* a notice that it has applied to the Lieutenant Governor in Council for the return of its deposit, calling upon all claimants, contingent or actual, who object to the return to file their objections with the Superintendent on or before a day named in the notice, which shall not be less than three months after the first publication of it.

(2) Upon giving the notice to the Superintendent, the insurer shall file with him a list of all its outstanding contracts of insurance, including contracts in respect of which claims have accrued.

(3) After the day named in the notice, if the Minister is satisfied that the insurer has obtained a discharge of all such outstanding contracts, the Lieutenant Governor in Council may direct that the deposit be returned.

(4) If the Minister is not satisfied that all such contracts have been discharged, the Lieutenant Governor in Council may direct that a sufficient amount be retained to meet the contracts unprovided for and that the remainder of the deposit be returned, and thereafter, from time to time as such contracts lapse or proof is adduced that they have been satisfied, further return of the deposit may be directed by the Lieutenant Governor in Council. R.S.O. 1950, c. 183, s. 45.

46. In sections 47 to 73,

1. “insured person” means a person who enters into a subsisting contract of insurance with an insurer and includes,

   (a) a person insured by a contract whether named or not; and

   (b) a person to whom or for whose benefit all or part of the proceeds of a contract of insurance is payable; and

Interpretation
(c) a person entitled to have insurance money applied toward satisfaction of his judgment in accordance with section 223;

2. "loss" includes the happening of an event or contingency by reason of which a person becomes entitled to a payment under a contract of insurance of money other than a refund of unearned premiums;

3. "Ontario contract" means a subsisting contract of insurance that,

(a) has for its subject,

(i) property that at the time of the making of the contract is in Ontario or is in transit to or from Ontario, or

(ii) the life, safety, fidelity or insurable interest of a person who at the time of the making of the contract is resident in Ontario or of an incorporated company that has its head office in Ontario; or

(b) makes provision for payment thereunder primarily to a resident of Ontario or to an incorporated company that has its head office in Ontario;

4. "reciprocal deposit" means a deposit of an insurer held pursuant to section 69 or 70;

5. "reciprocating province" means a province that has been declared to be a reciprocating province under paragraph 1 of subsection 1 of section 69 or subsection 1 of section 70 with respect to the deposit of a particular insurer. 1951, c. 39, s. 5, parl.

47.—(1) Notwithstanding anything hereinafter contained but subject to subsection 2, at any time before the granting of an order for administration of a deposit and upon the recommendation of the Superintendent certifying that such action is necessary or desirable for the protection of policyholders entitled to share in the proceeds of the deposit, the Minister may use all or any part of the deposit for the purpose of reinsuring all or any part of the Ontario contracts.

(2) A reciprocal deposit may be used for purposes of reinsurance in the manner and to the extent agreed upon by the superintendents of insurance of the reciprocating provinces and not otherwise. 1951, c. 39, s. 5, parl.
48.—(1) The deposit made by an insurer under this Act is subject to administration in the manner hereinafter provided.

(2) Subject to sections 69 and 70, the deposit shall be held and administered for the benefit of all insured persons under Ontario contracts and they are entitled to share in the proceeds of the deposit.

(3) An insured person under an Ontario contract is entitled to share in the proceeds of the deposit in respect of,

(a) a claim for a loss that is covered by the contract and that occurred before the termination date fixed under section 53 of this Act or section 233 of The Corporations Act; or

(b) a claim for refund of unearned premiums, except in the case of life insurance; or

(c) a claim for payment of the legal reserve in respect of the contract in the case of life insurance; or

(d) claims under both clauses (a) and (b). 1951, c. 39, s. 5, part.

49.—(1) An application for administration of a deposit shall be made by originating notice of motion to a judge of the Supreme Court.

(2) The application shall be made in the county or district, where application to be made

(a) in which the head office of the insurer is situate; or

(b) in which the chief office of the insurer in Ontario is situate if its head office is out of Ontario. 1951, c. 39, s. 5, part.

50.—(1) With the approval of the Minister, the Superintendent may make application for administration at any time when, in his opinion, it is necessary or desirable for the protection of the insured person entitled to share in the proceeds of the deposit.

(2) In the case of a reciprocal deposit held in Ontario, the superintendent of insurance of a reciprocating province may make application for administration of the deposit.

(3) An insured person entitled to share in the proceeds of a deposit may make application for administration of the deposit upon producing evidence,

(a) that he has served the Superintendent with a notice in writing of his intention to make application if the Superintendent or the superintendent of insurance of a reciprocating province does not apply; and
(b) that sixty days have elapsed since the service of the notice and that no application for administration of the deposit has been made.

(4) In the case of a reciprocal deposit, if the Superintendent is served with a notice as provided in subsection 3, he shall forthwith notify the superintendent of insurance of each reciprocating province that he has been so served. 1951, c. 39, s. 5, part.

51.—(1) The applicant for administration of the deposit shall serve the originating notice of motion at least ten days before the date specified in the notice for the making of the application.

(a) upon the insurer or, where the insurer is in liquidation, upon the liquidator of the insurer; and

(b) upon the Superintendent; and

(c) in the case of a reciprocal deposit, upon the superintendent of insurance of each reciprocating province.

(2) An applicant for administration is entitled to an order for administration upon proof,

(a) that the licence of the insurer has been cancelled, and that its assets are insufficient to discharge its outstanding liabilities; or

(b) that an order has been made for the winding up of the insurer; or

(c) that the insurer has failed to pay,

(i) an undisputed claim for sixty days after it has been admitted, or

(ii) a disputed claim after final judgment and tender of a valid discharge,

if the claim arose under a contract of insurance in respect of which the deposit is subject to administration. 1951, c. 39, s. 5, part.

52.—(1) Upon granting an order for administration, the court shall appoint a receiver to administer the deposit.

(2) Where a provisional liquidator or a liquidator has been appointed under this Act or The Corporations Act or a liquidator has been appointed under the Winding-up Act (Canada) to wind up a company that has made a deposit under this Act, the court may appoint the provisional liquidator or the liquidator as the receiver to administer the deposit.
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(3) Thereupon the provisional liquidator or the liquidator shall administer the deposit for the benefit of the insured persons entitled to share in the proceeds thereof in accordance with the provisions of and the priorities set out in this Act. 1951, c. 39, s. 5, part.

53.—(1) Where a termination date has not been fixed by a provisional liquidator or a liquidator under section 233 of The Corporations Act, forthwith after his appointment, the receiver shall fix a termination date for the subsisting contracts of insurance of the insurer, and on and after that date coverage and protection under the Ontario contracts cease and determine and the insurer is not liable under any such contract for a loss that occurs after that date.

(2) Where a receiver administering a reciprocal deposit held in another province for the benefit of the insured persons under Ontario contracts fixes a termination date for the subsisting contracts of insurance of the insurer, and on and after that date coverage and protection under the Ontario contracts cease and the insurer is not liable under any such contract for a loss that occurs after that date.

(3) The termination date shall not be less than twenty and not more than forty-five days after the date upon which the receiver was appointed.

(4) The receiver shall forthwith give notice in writing of the termination date to the Superintendent and, in the case of a reciprocal deposit, to the superintendent of insurance of each reciprocating province.

(5) The receiver shall forthwith publish notice of the termination date in The Ontario Gazette and in the official gazette of each reciprocating province and in such newspapers circulating in those provinces as the receiver in his opinion deems advisable in order to give reasonable notice of the termination date. 1951, c. 39, s. 5, part.

54.—(1) The Superintendent, upon receiving notice of a termination date fixed by the receiver administering the deposit of an insurer, shall forthwith take such action as he deems advisable in the interests of the insured persons under Ontario contracts to give notice of that date to them as soon as is reasonably possible.

(2) Without restricting the generality of subsection 1, the Superintendent may forthwith require each agent of the insurer in Ontario to forward to him a list showing the name and address of each person who has entered into a contract of insurance with the insurer of whom the agent has a record.
(3) On receipt of each list forwarded by an agent, the Superintendent may send by ordinary mail to each person whose name appears on the list a notice containing,

(a) the termination date fixed by the receiver;

(b) the name and address of the receiver to whom particulars of claims for loss and claims for refund of unearned premiums should be submitted; and

(c) such other information as the Superintendent deems advisable.

(4) The Superintendent in his discretion may publish, broadcast or otherwise communicate or distribute the information contained in the notice, either generally or in any particular area or case, in such manner and by such means as he deems best suited to convey the information to the insured persons as soon as is reasonably possible having regard to all the circumstances. 1951, c. 39, s. 5, part.

55. Forthwith after his appointment, the receiver shall,

(a) call either upon the insurer or its agent or liquidator to furnish a list of all insured persons who are entitled to share in the proceeds of the deposit; and

(b) call upon all insured persons who are entitled to share in the proceeds of the deposit to file their claims if they have not already done so. 1951, c. 39, s. 5, part.

56. The court, by the order appointing a receiver or by any subsequent order, may authorize the receiver to exercise, in respect of the accounts of the insurer, all or any of the powers that the Master of the Supreme Court would have if he were taking an account of the claims against the deposit, and every receiver so authorized has those powers as well as all other powers enjoyed by a receiver appointed under an order of the court. 1951, c. 39, s. 5, part.

57.—(1) The receiver may apply to the court from time to time for an order authorizing him,

(a) to sell or realize upon all or part of the securities comprised in the deposit of the insurer; and

(b) to pay from the proceeds thereof the costs of the administration of the deposit, including salaries of office staff, office expenses, the fee for the services of the receiver, fees and disbursements to adjusters and solicitors, and such other costs and expenses as the court deems proper.

(2) The court may require the receiver to give such notice of the application in such manner as the court requires.
(3) After hearing the application, the court may make the order and may require the receiver to comply with such conditions as the court directs. 1951, c. 39, s. 5, part.

58. The proceeds of the deposit are payable,

(a) first, in payment of the receiver and of all costs and expenses incurred by him in the administration of the deposit and in payment of the remuneration, costs and expenses of the provisional liquidator as ordered by the Minister under section 229 of The Corporations Act;

(b) second, in payment of the insured persons who are entitled to share in the proceeds of the deposit in accordance with the priorities set out in section 59. 1951, c. 39, s. 5, part.

59.—(1) Except in the case of life insurance, each insured person who claims in respect of a loss covered by the contract that occurred before the termination date fixed under section 53 of this Act or section 233 of The Corporations Act is entitled to receive payment of his approved or settled claim in full in priority to the insured persons who claim in respect of refunds of unearned premiums.

(2) Subject to subsection 1, an insured person who claims in respect of a refund of unearned premiums may claim such part of the premium paid as is proportionate to the period of his contract unexpired,

(a) at the termination date fixed by the receiver under section 53 or fixed by the provisional liquidator or the liquidator under section 233 of The Corporations Act; or

(b) at the date the insured person cancelled the contract, whichever is the earlier date.

(3) In the case of life insurance, each insured person who has a claim for a loss covered by the contract that occurred before the termination date fixed under section 53 of this Act or section 233 of The Corporations Act ranks in the distribution of the proceeds of the deposit for the approved or settled amount of the claim pari passu with insured persons under unmatured life insurance contracts.

(4) An insured person under an unmatured life insurance contract is entitled to the full amount of the legal reserve in respect of his contract determined by the receiver according to the valuation thereof approved by the Superintendent under this Act. 1951, c. 39, s. 5, part.
Section 60—(1) Where an insured person has filed a claim for a loss covered by the contract that occurred before the termination date fixed under section 53 of this Act or section 233 of The Corporations Act, the receiver shall inquire into the claim and,

(a) may approve the claim, if a final judgment has been obtained against the insurer in respect thereof; or

(b) may approve the claim, if it has been adjusted or settled by the insurer or by the receiver at an amount that in his opinion the claimant is reasonably entitled to receive; or

(c) may refuse to approve the claim or the amount thereof.

(2) An appeal from any decision of the receiver, if taken within thirty days from the date on which the person appealing received notice of the decision.

(3) The appeal shall be taken by service on the receiver and by the filing of a notice of motion returnable before a judge of the Supreme Court in chambers who may summarily determine the matter or may direct an issue to be tried or may make such other order as he deems proper. 1951, c. 39, s. 5, part.

Section 61—(1) The receiver shall prepare a list showing the names of the persons who appear by the books and records of the insurer or otherwise to be entitled to share in the proceeds of the deposit.

(2) The receiver shall prepare and attach to the list a schedule of approved claims for losses of persons whose names appear on the list showing in respect of each approved claim,

(a) the name and address of the claimant;

(b) the particulars of the contract of insurance upon which the claim is based;

(c) whether the claim was reduced to judgment or was adjusted or settled; and

(d) the amount to which the claimant is entitled.

(3) The receiver shall prepare and attach to the list a schedule of unapproved claims for losses of persons whose names appear on the list showing in respect of each claim,

(a) the name and address of the claimant;

(b) the particulars of the contract of insurance upon which the claim is based;
(c) the amount for which the claim is made or the amount estimated by the receiver as the probable maximum amount that will be payable under the contract in respect of that loss.

(4) Except in the case of life insurance, the receiver shall prepare and attach to the list a schedule of unearned premiums refundable showing in respect of each person whose name appears on the list and who is entitled to a refund,

(a) his name and address;
(b) the particulars of the contract of insurance in respect of which the unearned premium is refundable;
(c) the date on which the policy was terminated either by the receiver under section 53 or by the provisional liquidator or the liquidator under section 233 of The Corporations Act, or was cancelled by the insured person;
(d) the amount of the unearned premium as calculated by the receiver under subsection 2 of section 59.

(5) In the case of life insurance, the receiver shall prepare and attach to the list a schedule of contract legal reserves showing in respect of each person whose name appears on the list and who is entitled to claim for the legal reserve in respect of his contract,

(a) his name and address;
(b) the particulars of the contract of insurance in respect of which the legal reserve is payable;
(c) the amount of the legal reserve calculated by the receiver under subsection 4 of section 59.

62.—(1) Upon completion of the schedules and after having paid or provided reasonable reserves out of the deposit to pay the amounts payable under clause a of section 58, the receiver may apply to the court for an order authorizing the payment of such aggregate sum as is fixed by the court on account of the amounts payable under clause b of section 58.

(2) Except in the case of life insurance, the receiver shall divide the sum mentioned in subsection 1 so as to provide for payment of the claims for losses in full or, if the sum is inadequate, pro rata on account of,

(a) the approved claims for losses set out in the schedule of approved claims for losses; and
(b) the unapproved claims for losses set out in the schedule of unapproved claims for losses,
and shall distribute the part referred to in clause a at such time or times as the receiver determines to the persons entitled thereto and shall retain the part referred to in clause b for distribution from time to time as the unapproved claims are approved.

(3) Except in the case of life insurance, if there appears to be a surplus remaining after the receiver has paid or retained a sum that, in his opinion, is reasonably adequate to pay in full all claims for losses referred to in subsection 2, the receiver shall divide the surplus so as to provide for payment of all unearned premiums in full or, if it is inadequate, among the persons entitled to a refund of unearned premiums in proportion to the amounts payable as set out in the schedule of unearned premiums refundable.

(4) In the case of life insurance, the receiver shall divide the sum fixed under subsection 1 so as to provide for payment of the following amounts in full or, if the sum is inadequate, pro rata on account of,

(a) the approved claims for losses set out in the schedule of approved claims for losses;

(b) the unapproved claims for losses set out in the schedule of unapproved claims for losses;

(c) the full amount of the legal reserve in respect of each matured life insurance contract as set out in the schedule of contract legal reserves,

and shall distribute the parts referred to in clauses a and c at such time or times as the receiver determines to the persons entitled thereto and shall retain the part referred to in clause b for distribution from time to time as the unapproved claims are approved. 1951, c. 39, s. 5, part.

63. If a claim in respect of a loss that occurred before the termination date is filed after the receiver has applied to the court under subsection 1 of section 62 and before the final order of the court discharging the receiver, the claimant is entitled to share in the distribution of the moneys remaining in the hands of the receiver upon proof of his claim and upon such terms and conditions as the court directs. 1951, c. 39, s. 5, part.

64. The receiver administering a deposit may apply to the court at any time on summary application for directions or advice pertaining to any matter arising in the administration of the deposit. 1951, c. 39, s. 5, part.
65. Upon the completion of the distribution of the proceeds of the deposit, the receiver shall submit his final accounts to the court and the court, on the passing thereof, may make an order approving the accounts and discharging the receiver. 1951, c. 39, s. 5, part.

66. If a claim is made after the completion of the distribution of the proceeds of the deposit and the discharge of the receiver or if there is a claim against the insurer by an insured person not fully paid by the distribution of the proceeds of the deposit, the claimant is not barred from any recourse he may have against the insurer, and his claim is a first lien or charge on the assets of the insurer in winding up as provided in subsection 2 of section 231 of The Corporations Act. 1951, c. 39, s. 5, part.

67. A person who holds security for his claim under a contract of insurance, or who is entitled to share in the administration of a fund deposited with the government of any other province for the protection of persons resident in that province, is only entitled to share in the administration of the Ontario deposit if he abandons such special security and releases his claim upon any other government deposit. 1951, c. 39, s. 5, part.

68.—(1) In sections 69 and 70, the expression “contracts” in relation to any other province of Canada, has the meaning assigned to it by the Act of that province under which insurers are licensed to carry on the business of insurance.

(2) This section and sections 69 and 70 are applicable notwithstanding that the insurer is or may become licensed in one province for classes of insurance different from those for which it is or may become licensed in another province.

(3) Sections 69 and 70 prevail over any other provisions of this Act to the extent that they are inconsistent with such other provisions. 1951, c. 39, s. 5, part.

69.—(1) Where an insurer has its head office for Canada in Ontario and makes a deposit under this Act for the purposes of this section by virtue whereof the insurer will not be required to make a deposit in another province in which it is or may become licensed to undertake insurance, the following provisions are in effect:

1. The amount of the deposit to be made and maintained by the insurer shall be fixed by order of the Lieutenant Governor in Council and the order shall declare what provinces are reciprocating provinces with respect to that insurer’s deposit.
2. The deposit shall be held and administered as security \textit{pari passu} for the Ontario contracts of the insurer and for its contracts in any reciprocating province.

3. The Minister shall, upon the request of the official who issues or proposes to issue a licence to the insurer in another province, certify under his hand that the deposit is held in the manner provided by paragraph 2, and the Superintendent shall forward the certificate to that official and a copy to the superintendent of insurance in each province.

4. Where, with respect to the outstanding contracts of the insurer, it appears to the Superintendent from the annual statement under section 76 or any examination of the affairs of the insurer that a further deposit for the purposes of this section is necessary, or where it appears to the superintendent of insurance for another province in which the insurer is licensed from any annual report made to him by the insurer or any examination of the affairs of the insurer that a further deposit for the purposes of this section is necessary and such superintendent requests the Superintendent to obtain a further deposit, the insurer shall forthwith deposit such further sum as the Lieutenant Governor in Council fixes.

5. If the insurer obtains a certificate of registration from the Government of Canada extending to this or another province and as a registrant makes a deposit under the \textit{Canadian and British Insurance Companies Act} (Canada) or the \textit{Foreign Insurance Companies Act} (Canada), the Minister may, on the request of the insurer, authorize the Treasurer of Ontario to deliver to the insurer or to transfer to the Minister of Finance for Canada all or any part of such deposit as the Minister thinks fit having regard to the extent of the certificate of registration, and the Superintendent shall forthwith give notice of the delivery or transfer to the superintendent of insurance of each reciprocating province.

6. Where the licence of the insurer is suspended or cancelled under this Act, the Superintendent shall forthwith give notice to the superintendent of insurance in each province.

7. Where the insurer ceases to carry on insurance business in Canada and its deposit may be withdrawn under this Act, the Superintendent shall notify the superintendent of insurance in each province, and all claims and liabilities arising in any such
province shall be verified by the superintendent of insurance of that province and a statement thereof communicated to the Superintendent.

8. Where the insurer ceases to transact business in or its licence is suspended or cancelled in a reciprocating province and notice thereof is given to the Superintendent, the Minister and the Superintendent, upon the request of the superintendent in the reciprocating province, may take any action that could be taken if the insurer ceased to transact business in or its licence was suspended or cancelled in Ontario.

(2) The insurer shall not change the location of its head office to another province without the consent of the Minister, but, where the Minister so consents, he may authorize the Superintendent to transfer the insurer’s deposit to the minister responsible for the deposit in that province or to the insurer, as the minister in that province requests, and the Superintendent shall forthwith give notice of any change or transfer to the superintendent of insurance of each reciprocating province. 1951, c. 39, s. 5, part, amended.

70.—(1) Where an insurer has its head office for Canada in another province and there makes a deposit of such amount as is fixed by the proper authority in that province, and under the laws of that province the deposit is held as security pari passu for its Ontario contracts and its contracts in every reciprocating province, the Minister, upon receipt of a certified copy of an order of the lieutenant governor in council of the province in which the deposit is made fixing the amount of the deposit and declaring that Ontario is a reciprocating province with respect to that insurer’s deposit, and upon receipt of the consent of the insurer to its deposit being so held, shall exempt the insurer from the provisions of this Act requiring it to make and maintain a deposit.

(2) Where the insurer ceases to transact business in or its licence is suspended or cancelled in Ontario, the Superintendent shall forthwith give notice thereof to the superintendent of insurance of the province in which the reciprocal deposit is held and to the superintendent of insurance of each other reciprocating province.

(3) Where an order is made for the administration of a reciprocal deposit held in another province under subsection 1, the Superintendent, as soon as is reasonably possible after receipt of notice of the termination date fixed by the receiver, shall proceed pursuant to section 54 to give the notice required by that section to the insured persons under the Ontario contracts.
(4) Where a licensed insurer is exempted under this section, the Minister shall transfer its deposit under this Act to the minister responsible for the deposit in the province in which the insurer has its head office or to the insurer, as that minister requests. 1951, c. 39, s. 5, part.

71. At any time before the granting of an order for the administration of a reciprocal deposit, the superintendent of insurance of each reciprocating province may enter into an agreement to use all or any part of the securities deposited for the purpose of reinsuring all or any part of the risks of the insurer outstanding in all or any of those provinces. 1951, c. 39, s. 5, part.

72.—(1) The Lieutenant Governor in Council may, on being satisfied that any other province has enacted provisions identical with or substantially the same as sections 68 to 70, order that those sections apply to that province.

(2) A copy of every order under subsection 1 shall be sent to the superintendent of insurance in each province. 1951, c. 39, s. 5, part.

73.—(1) Where a licensed insurer, hereinafter called the continuing insurer, has, by purchase or otherwise, acquired the assets and assumed the liabilities in Ontario of another licensed insurer, hereinafter called the discontinuing insurer, or reinsured all the contracts of a discontinuing insurer outstanding in Ontario, the Lieutenant Governor in Council may, upon the application of the continuing insurer, and upon the report of the Superintendent, direct the transfer of the deposit held by the Minister under this Act in the name of the discontinuing insurer to the continuing insurer.

(2) In any such case, the deposit so transferred shall thereafter be treated and dealt with under this Act in the same manner as though it had been originally deposited by the continuing insurer. 1951, c. 39, s. 5, part.

RECORDS AND RETURNS

74.—(1) Every licensed insurer that carries on in Ontario the business of fire insurance shall keep a record of its premium income derived from risks located in Ontario and of claims paid in respect of such risks so as to show at any time its experience according to the classification of occupancy hazards of the National Board of Fire Underwriters, with such modifications as the Superintendent prescribes.
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(2) If at any time it appears to the Minister on the report of the Superintendent that such records are not kept in such a manner as to show correctly the experience of the insurer in Ontario as required by this Act, the Minister may nominate a competent accountant to proceed under his direction to audit the books and records of the insurer and to give such instructions as will enable the officers of the insurer to keep the records correctly thereafter.

(3) The expense of such an audit shall be borne by the insurer and shall not exceed $15 per day and necessary traveling expenses of the accountant nominated and the account shall, when certified and approved under the hand of the Superintendent, be paid by the insurer forthwith.

(4) Every licensed insurer undertaking the business of fire insurance in Ontario shall prepare and file annually with the Superintendent on or before the 1st day of July in each year, on a printed form to be supplied by the Superintendent, a sworn statement of the premium income and losses experienced in Ontario for the calendar year next preceding the date of the return according to the records required to be kept by this section.

(5) Any insurer and the principal officer in Ontario of any insurer that contravenes this section is guilty of an offence. R.S.O. 1950, c. 183, s. 72.

75.—(1) Every licensed insurer that carries on in Ontario the business of automobile insurance shall prepare and file, when required, with the Superintendent, or with such statistical agency as he designates, a record of its automobile insurance premiums and of its loss and expense costs in Ontario, in such form and manner and according to such system of classification as he approves.

(2) The Superintendent may require any agency so designated to compile the data so filed in such form as he approves, and the expense of making the compilation shall be apportioned among the insurers whose data is compiled by such agency by the Superintendent who shall certify in writing the amount due from each insurer and it is payable by the insurer to such agency forthwith.

(3) Subsections 2, 3 and 5 of section 74 apply mutatis mutandis to this section. R.S.O. 1950, c. 183, s. 73.

76.—(1) Subject to section 296, every licensed insurer shall prepare annually and deliver to the Superintendent, on or before the last day of February of each year, a statement of the condition of affairs of the insurer as at the 31st day of December next preceding, which statement shall be in such
form as is prescribed by the Superintendent and shall exhibit
the assets, liabilities, receipts and expenditures of the insurer
for the calendar year ended on such date, and shall also
exhibit particulars of the business done in Ontario during such
year and such other information as is deemed necessary from
time to time by the Minister or Superintendent, and such
statement shall be verified in the manner prescribed by the
Superintendent.

(2) In the case of an insurer designated by the Lieutenant
Governor in Council, the Superintendent may, in lieu of the
annual statement required to be filed by all insurers under
subsection 1, direct the preparation of a modified statement
respecting the business of the insurer in Ontario only.

(3) In the case of a corporation, such statement shall be
verified by the president, vice-president or managing director,
or other director appointed for the purpose by the board of
directors, and by the secretary or manager of the corporation.

(4) An insurer shall, when required by the Superintendent,
make prompt and explicit answer in reply to any inquiry
directed to the insurer by him in relation to the statement or
in relation to the transactions of the insurer in Ontario.

(5) In the case of all classes of insurance, other than life
insurance, and in the case of all insurers, the statement shall
show as a liability of the insurer 80 per cent of the actual
portions of unearned premiums on all business in force on the
31st day of December then last past or 80 per cent of 50
per cent of the premiums written in its policies and received
in respect of contracts having one year or less to run and pro
rata on those for longer periods.

(6) In the case of insurers transacting life insurance, the
statement shall show as a liability the valuation of outstanding
contracts of insurance according to the standard for valuation
of policies of life insurance prescribed by section 80, or such
higher standard as the insurer, with the approval of the
Superintendent, adopts.

(7) The statement shall not show as assets the unpaid
balances owing by agents or other insurers in respect of busi-
ness written before the 1st day of October in the next pre-
ceding calendar year, or bills receivable on account of the
same, or unpaid capital or premium on subscribed shares of
capital stock, or investment in office furnishings or equipment,
or shall such statements include as assets any investments
not authorized by any special or general Act to which the
insurer is subject.

(8) Every licensed insurer may, in its annual statement or
in any valuation of its securities required to be made, value
all of its securities having a fixed term and rate and not in default as to principal or interest according to the following rule: if purchased at par, at the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield meantime the effective rate of interest at which the purchase was made; but the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, and the Superintendent has full discretion in determining the method of calculating values according to the foregoing rule. R.S.O. 1950, c. 183, s. 74.

77. A statement purporting to show the financial condition of an insurer differing from the financial condition shown by the statement filed with the Superintendent, or a balance sheet or other statement in form differing from the form prescribed by the regulations, shall not be published or circulated, and every insurer publishing such a statement is guilty of an offence. R.S.O. 1950, c. 183, s. 75.

78. Every person who represents orally or in writing that the issue of a licence to an insurer or the printing or publication of an annual statement in the report of the Superintendent or in any other publication of the Department or any other circumstance of the supervision or regulation of the business of the insurer by law or the Department is a warranty or guarantee of the financial standing of the insurer or of its ability to provide for the payment of its contracts at maturity is guilty of an offence. R.S.O. 1950, c. 183, s. 76.

REAL ESTATE

79.—(1) Except in the case of a fraternal society, a licensed insurer may acquire and hold absolutely for its own use and benefit such real property as is necessary for the transaction of its business or bona fide mortgaged to it by way of security, and such real property as is acquired by it by foreclosure or in satisfaction of a debt, and may sell, mortgage, lease or otherwise dispose of the same, but such insurer shall sell any such last-mentioned real property within seven years after it has been so acquired.

(2) Except in the case of a fraternal society, a licensed insurer may acquire and hold real property in addition to that provided for by subsection 1 and may acquire or hold or construct a building larger than is required for the transaction of its business and may lease any part of the building not so required, upon complying with and subject to The Mortmain and Charitable Uses Act.

R.S.O. 1960, c. 246.
(3) In the case of a fraternal or mutual benefit society, any licensed society or any branch or lodge thereof may, subject to its constitution or rules, acquire and hold absolutely for its own use and benefit such real estate as is necessary for the transaction of its business or bona fide mortgaged to it by way of security and, when so authorized by the Lieutenant Governor in Council, may acquire and hold or construct a building larger than is required for the transaction of its business, and may lease any part of the building not so required, and may hold such real estate as is acquired by it by foreclosure or in satisfaction of a debt, and may sell, mortgage, lease or otherwise dispose of the same; but the society, branch or lodge shall sell any such last-mentioned real estate within seven years after it has been so acquired.

(4) Any such real property that has been held by the insurer for a longer period than seven years without being disposed of is forfeited to Her Majesty for the use of Ontario, but,

(a) no such forfeiture takes effect until the expiration of at least six calendar months after notice in writing to the insurer by the Minister of the intention of Her Majesty to claim the forfeiture; and

(b) the insurer may, notwithstanding such notice, before the forfeiture is effected, sell or dispose of the property free from liability to forfeiture. R.S.O. 1950, c. 183, s. 77 (1-4).

(5) An insurer licensed for the transaction of life insurance may make such investments to an aggregate amount not exceeding 5 per cent of its total assets in Canada allowed by the Superintendent in the purchase of land in Ontario or elsewhere in Canada where the insurer is carrying on business, the improvement thereof, the construction of buildings thereon, and the management and disposal thereof, as are referred to in The National Housing Act, 1938 (Canada), the National Housing Act (Canada), or the National Housing Act, 1954 (Canada), or any amendments thereto. R.S.O. 1950, c. 183, s. 77 (5); 1955, c. 35, s. 1 (1).

(6) Except in the case of a fraternal society, a licensed insurer may make such investments in real estate or lease-holds in Ontario and elsewhere in Canada where the insurer is carrying on business as are referred to in paragraph 1 of subsection 4 of section 208 of The Corporations Act. R.S.O. 1950, c. 183, s. 77 (6); 1955, c. 35, s. 1 (2).

LIFE INSURANCE RESERVES

80.—(1) The valuation of contracts of life insurance issued by insurers incorporated and licensed under the law of Ontario, except contracts of fraternal societies licensed under this Act,
shall be based on the British Offices' Life Tables, 1893, O^M(6), and on a rate of interest of $3\frac{1}{2}$ per cent per annum, but any such insurer may, with the approval of the Superintendent, adopt the American Men Ultimate Table of Mortality A^M(5) with interest at $3\frac{1}{2}$ per cent per annum, for the valuation of contracts issued on and after the 1st day of January, 1929.

(2) In computing such valuation, a deduction may be allowed from the value of a policy in the first policy year of an amount ascertained in the following manner, namely: in the case of a twenty-payment life policy or any other form of policy, except a term policy, the net annual premium upon which is less than the corresponding net annual premium of a twenty-payment life policy, the difference between the net annual premium for such policy and the corresponding net premium for a one-year term insurance, and in the case of a policy with a net annual premium greater than that of a twenty-payment life policy, an amount equal to the deduction allowed in respect of a twenty-payment life policy.

(3) After the first policy year, the deduction allowed by subsection 2 shall be diminished each year by an amount not less than one-ninth of the deduction in the first policy year so that in the tenth year from the date of issue the value of the policy shall not be less than that ascertained in accordance with subsection 1.

(4) In case of policies subject to less than ten annual premiums, the deduction ascertained as provided in subsection 2 shall, in each year after the first policy year, be reduced by an amount not less than the equal parts thereof required to provide that the value of the policy at the end of the premium paying period shall be not less than that ascertained in accordance with subsection 1.

(5) No insurer shall issue any contract of life insurance that does not appear to be self-supporting upon reasonable assumption as to interest, mortality and expenses.

(6) Where a contract of life insurance provides for accident or sickness insurance benefits, the Superintendent may prescribe by regulations the basis for valuing such benefits, but no deduction shall be allowed from the basis so fixed under subsection 2, and in the valuation of the life insurance benefits under such contracts, the amount of the net annual premium upon which the deduction provided for in subsections 1 to 5 is to be based shall be the net annual premium exclusive of the premium for such accident or sickness benefits.

(7) In the case of annuity contracts, whether immediate or deferred, the valuation basis shall be the British Offices' Select Life Annuity Tables, 1893 (male or female according to the sex of the nominee) with interest at $3\frac{1}{2}$ per cent per annum.
(8) Where the contracts of a fraternal society are reinsured by a licensed insurer other than a fraternal society, the reinsurer may, with the approval of the Superintendent, value such contracts on the American Men Ultimate Table of Mortality $A^M(6)$ with interest at 4 per cent per annum. R.S.O. 1950, c. 183, s. 78.

INSURANCE WITH UNLICENSED INSURERS

81. Notwithstanding anything in this Act, any person may insure property situated in Ontario against fire with an unlicensed insurer, and any property insured or to be insured under this section may be inspected and any loss incurred in respect thereof adjusted, if such insurance is effected outside Ontario and without any solicitation whatsoever directly or indirectly on the part of the insurer. R.S.O. 1950, c. 183, s. 79.

UNDERWRITERS AGENCIES

82.—(1) A policy of insurance shall not be issued through any underwriters agency under its own name for an insurer, unless the insurer is licensed to carry on business in Ontario and has obtained from the Superintendent a licence to issue contracts of insurance through such underwriters agency.

(2) Every policy of insurance issued through any such underwriters agency shall be in a form approved by the Superintendent and shall bear upon its face the name and address of the insurer in a prominent and conspicuous manner, and the name of the underwriters agency shall not appear on the face of the policy except as a countersignature thereto.

(3) On no other part of the policy shall the name of the underwriters agency appear except that for identification purposes the words “issued through the . . . . . . . . . . . . . . . . . . . . Underwriters Agency” may be printed on the filing back of the policy following the name of the insurer and in type not larger than half the depth of that used in printing such name.

(4) Upon an application for a licence under this section, the insurer shall furnish to the Superintendent evidence of its approval and adoption of the form of policy to be issued through the underwriters agency and of the authority of the underwriters agency or its agents to bind the insurer.

(5) Every insurer licensed under this Act carrying on business or issuing any policy of insurance through any such underwriters agency shall file an annual return of the business transacted through the same underwriters agency in a form prescribed by the Superintendent. R.S.O. 1950, c. 183, s. 80.
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GENERAL

83. Any person, other than an insurer or its duly authorized agent, who advertises or holds himself out as a purchaser of life insurance policies or of benefits thereunder, or who trafficks or trades in life insurance policies for the purpose of procuring the sale, surrender, transfer, assignment, pledge or hypothecation thereof to himself or any other person, is guilty of an offence. R.S.O. 1950, c. 183, s. 81.

84. Any information, document, record, statement or thing made or disclosed to the Superintendent concerning a person licensed or applying for licence under this Act is absolutely privileged and shall not be used as evidence in any action or proceeding in any court brought by or on behalf of such person. R.S.O. 1950, c. 183, s. 82.

85.—(1) The Superintendent may require an insurer to file with him a copy of any form of policy or of the form of application for any policy issued or used by the insurer.

(2) The Superintendent shall report to the Minister any case where an insurer issues a policy or uses an application that, in the opinion of the Superintendent, is unfair, fraudulent or not in the public interest, and after hearing the insurer the Minister may, if he concurs in the report, order the Superintendent to prohibit the insurer from issuing or using such form of policy or application.

(3) An insurer that, after being so prohibited, issues any such policy or uses any such application is guilty of an offence. R.S.O. 1950, c. 183, s. 83.

86. Unless the contract otherwise provides, a contravention of any criminal or other law in force in the province or elsewhere does not, ipso facto, render unenforceable a claim for indemnity under a contract of insurance except where the contravention is committed by the insured, or by another person with the consent of the insured, with intent to bring about loss or damage but in the case of a contract of life insurance this section applies only to disability insurance undertaken as part of the contract. R.S.O. 1950, c. 183, s. 84.

PENALTIES

87.—(1) Unless otherwise provided, every person guilty of an offence under this Act shall incur a fine of not less than $20 and not more than $200 for every such offence.
(2) In addition, where an insurer contravenes the prohibitions or fails to comply with the requirements of this Act, the Lieutenant Governor in Council may, upon the report of the Superintendent, suspend or cancel the licence of the insurer.

(3) Every insurer undertaking insurance or carrying on business in Ontario without holding a licence to do so is guilty of an offence and shall incur a fine of $50 for each and every day during which the default continues.

(4) In case of default in making a return required by this Act to be made within a limited time, the insurer or the person required by this Act to make the return shall, in addition to the fine provided by subsection 1, incur a further fine of $100 for every month or part thereof during which such insurer or person neglects to file the return so required.

(5) In any prosecution under this Act, whenever it appears that the accused has done any act or been guilty of any omission in respect of which he would be liable to some penalty under this Act or the regulations made hereunder, unless he is duly licensed, it is incumbent upon him to prove that he is duly licensed.

(6) The fines imposed under this Act are recoverable under The Summary Convictions Act and when recovered shall be paid over to the Treasurer of Ontario for the use of Ontario. R.S.O. 1950, c. 183, s. 85, revised.

FEES AND REGULATIONS

88.—(1) Until otherwise prescribed by the Lieutenant Governor in Council, the fees or taxes payable to the Department by an insurer or other person are as mentioned in Schedule A.

(2) Such fees or taxes shall be paid before a licence or the renewal of a licence is issued. R.S.O. 1950, c. 183, s. 86 (1, 2).

(3) The Lieutenant Governor in Council may make regulations,

(a) altering or amending the scale of fees or taxes provided for in Schedule A;

(b) extending the provisions of this Act or any of them to a system or class of insurance not particularly mentioned in this Act;

(c) prescribing the limitations and conditions subject to which a licence to an insurer may be issued;
(d) generally for the better administration of the Depart-
ment or the carrying out of the provisions of this
Act. R.S.O. 1950, c. 183, s. 86 (3); 1957, c. 51, s. 3.

PART III

INSURANCE CONTRACTS IN ONTARIO

80. Except where otherwise provided and where not in-
consistent with other provisions of this Act, this Part applies
to every contract of insurance made in Ontario, other than
contracts of,

(a) accident and sickness insurance;
(b) life insurance; and
(c) marine insurance. R.S.O. 1950, c. 183, s. 87.

90. Where the subject-matter of a contract of insurance is
property in Ontario or an insurable interest of a person resi-
dent in Ontario, the contract of insurance, if signed, counter-
signed, issued or delivered in Ontario or committed to the
post office or to any carrier, messenger or agent to be delivered
or handed over to the insured, his assign or agent in Ontario
shall be deemed to evidence a contract made therein, and the
contract shall be construed according to the law thereof, and
all moneys payable under the contract shall be paid at the
office of the chief officer or agent in Ontario of the insurer in
lawful money of Canada. R.S.O. 1950, c. 183, s. 88.

91.—(1) All the terms and conditions of the contract of
insurance shall be set out in full in the policy or by writing
securely attached to it when issued, and, unless so set out, no
term of the contract or condition, stipulation, warranty or
proviso modifying or impairing its effect is valid or admissible
in evidence to the prejudice of the insured or beneficiary.

(2) Subsection 1 does not apply to an alteration or modifica-
tion of the contract agreed upon in writing by the insurer and
the insured after the issue of the policy.

(3) Whether the contract does or does not provide for its
renewal, but it is renewed by a renewal receipt, it is a suffi-
cient compliance with subsection 1 if the terms and conditions
of the contract were set out as provided by that subsection
and the renewal receipt refers to the contract by its number
or date.

(4) The proposal or application of the insured shall not as
against him be deemed a part of or be considered with the
contract of insurance except in so far as the court determines that it contains a material misrepresentation by which the insurer was induced to enter into the contract.

(5) No contract of insurance shall contain or have endorsed upon it, or be made subject to, any term, condition, stipulation, warranty or proviso providing that such contract shall be avoided by reason of any statement in the application therefor, or inducing the entering into of the contract by the insurer, unless such term, condition, stipulation, warranty or proviso is and is expressed to be limited to cases in which such statement is material to the contract, and no contract shall be avoided by reason of the inaccuracy of any such statement unless it is material to the contract.

(6) The question of materiality in a contract of insurance is a question of fact for the jury, or for the court if there is no jury, and no admission, term, condition, stipulation, warranty or proviso to the contrary contained in the application or proposal for insurance, or in the instrument of contract, or in any agreement or document relating thereto, has any force or validity.

(7) This section does not apply to contracts of fire or automobile insurance. R.S.O. 1950, c. 183, s. 89.

92. An insurer shall upon request furnish to the insured a true copy of his application or proposal for insurance. R.S.O. 1950, c. 183, s. 90.

93.—(1) No insurer shall make a contract of insurance inconsistent with this Act.

(2) An act or omission of the insurer resulting in imperfect compliance with any of the provisions of this Act does not render a contract invalid as against the insured. R.S.O. 1950, c. 183, s. 91.

94.—(1) Every policy shall contain the name of the insurer, the name of the insured, the name of the person or persons to whom the insurance money is payable, the premium for the insurance, the subject-matter of the insurance, the indemnity for which the insurer may become liable, the event on the happening of which the liability is to accrue and the term of the insurance.

(2) This section does not apply to contracts of automobile and guarantee insurance. 1956, c. 32, s. 3.
Right of claimant against insurer where execution against insured returned unsatisfied

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(1) Where a person incurs a liability for injury or damage to the person or property of another, and is insured against such liability, and fails to satisfy a judgment awarding damages against him in respect of his liability, and an execution against him in respect thereof is returned unsatisfied, the person entitled to the damages may recover by action against the insurer the amount of the judgment up to the face value of the policy, but subject to the same equities as the insurer would have if the judgment had been satisfied.

(2) This section does not apply to motor vehicle liability policies. R.S.O. 1950, c. 183, s. 93.

96.—(1) Where several actions are brought for the recovery of money payable under a contract or contracts of insurance, the court may consolidate or otherwise deal therewith so that there is but one action for and in respect of all the claims made in such actions.

(2) Where an action is brought to recover the share of one or more infants, all the other infants entitled, or the trustees, executors or guardians entitled to receive payment of the shares of such other infants, shall be made parties to the action, and the rights of all the infants shall be determined in one action.

(3) In all actions where several persons are interested in the insurance money, the court or judge may apportion among the persons entitled any sum directed to be paid, and may give all necessary directions and relief.

(4) Where the person entitled to receive money due and payable under a contract of insurance, except insurance of the person, is domiciled or resides in a foreign jurisdiction and payment, valid according to the law of such jurisdiction, is made to such person, such payment is valid and effectual for all purposes. R.S.O. 1950, c. 183, s. 94.

97.—(1) Where the policy has been delivered, the contract is as binding on the insurer as if the premium had been paid, although it has not in fact been paid, and although delivered by an officer or agent of the insurer who had not authority to deliver it.

(2) The insurer may sue for the unpaid premium and may deduct the amount thereof from the amount for which he is liable under the contract of insurance.

(3) Where a cheque, bill of exchange or promissory note or any promise to pay is given, whether originally or by way of renewal, for the whole or part of any premium and the cheque, bill of exchange or promissory note or other promise to pay is
not honoured according to its tenor, the insurer may terminate
the contract forthwith by giving written notice by registered
mail. 1956, c. 32, s. 4.

98.—(1) An insurer, immediately upon receipt of a request, and in any event not later than sixty days after receipt of notice of loss, shall furnish to the insured or person to whom the insurance money is payable forms upon which to make the proof of loss required under the contract. 1956, c. 32, s. 5.

(2) An insurer who neglects or refuses to comply with subsection 1 is guilty of an offence. R.S.O. 1950, c. 183, s. 96 (2).

99. No action shall be brought for the recovery of money payable under a contract of insurance until the expiration of sixty days after proof, in accordance with the provisions of the contract,

(a) of the loss; or

(b) of the happening of the event upon which the insurance money is to become payable,

or of such shorter period as is fixed by the contract of insurance. 1956, c. 32, s. 6.

INSURANCE AS COLLATERAL SECURITY

100.—(1) A mortgagee shall not accept or be entitled to receive either directly or through his agent or employee, and no officer or employee of such mortgagee shall accept or receive any commission or other remuneration or benefit in consideration of effecting a contract of insurance or renewal thereof under which contract loss, if any, is payable to him as mortgagee.

(2) No insurer or agent or broker shall pay, allow or give any commission or other remuneration or benefit to a mortgagee or to any person in his employ or on his behalf, in consideration of effecting a contract of insurance or renewal thereof, under which contract loss, if any, is payable to him as mortgagee.

(3) Any insurer or other person who contravenes this section is guilty of an offence. R.S.O. 1950, c. 183, s. 98.

101.—(1) Where an insured assigns the right to refund of premium that may accrue by reason of the cancellation or termination of a contract of insurance under the terms thereof and notice of the assignment is given by the assignee to the insurer, the insurer shall pay any such refund to the assignee.
notwithstanding any condition in the contract, whether
prescribed under this Act or not, requiring the refund to be
paid to the insured or to accompany any notice of cancellation
or termination to the insured.

(2) Where the condition in the contract dealing with can-
cellation or termination by the insurer provides that the
refund shall accompany the notice of cancellation or termina-
tion, the insurer shall include in the notice a statement that in
lieu of payment of the refund in accordance with the condition
the refund is being paid to the assignee under this section.
1957, c. 51, s. 4.

CONTR ACTS OF GUARANTEE INSURANCE

102.—(1) Every contract of title insurance shall be in
writing, and, in addition to the other requirements prescribed
by this Act, shall expressly limit the liability of the insurer to
a sum stated in the contract.

(2) If a question arises as to the validity of the title insured,
or as to the liability of the insurer, the insurer or the insured or
any person entitled to proceed in right of either may by
application have such question determined as provided in The
Vendors and Purchasers Act in the case of vendors and pur-
chasers. R.S.O. 1950, c. 183, s. 99.

GENERAL

103. Any licensed insurer that discriminates unfairly be-
tween risks in Ontario because of the race or religion of the
insured is guilty of an offence. R.S.O. 1950, c. 183, s. 101.

104.—(1) Where an insurer cannot obtain a sufficient dis-
charge for insurance money for which it admits liability, the
insurer may apply to the court ex parte for an order for the
payment thereof into court, and the court may order the
payment into court to be made upon such terms as to costs
and otherwise as the court directs, and may provide to what
fund or name the amount shall be credited.

(2) The receipt of the registrar or other proper officer of the
court is sufficient discharge to the insurer for the insurance
money so paid into court, and the insurance money shall be
dealt with according to the orders of the court. R.S.O. 1950,
c. 183, s. 102.

PART IV

FIRE INSURANCE

105. In this Part, unless the context otherwise requires,”agricultural property” includes dwelling-houses, stables,
barns, sheds and outbuildings and their contents, wagons, car-
riages, and other vehicles, saddles and harness, agricultural engines, implements, tools, instruments, appliances and machinery, household goods, wearing apparel, provisions, musical instruments, and libraries, live stock, growing crops, and crops severed from the land, fruit and ornamental trees, shrubs and plants, and live or standing timber, being upon farms as farm property, and owned by members of the insurer in which the property is insured. R.S.O. 1950, c. 183, s. 103, par. 1.

Application of Part 106.—(1) This Part applies to insurance against loss of or damage to property arising from the peril of fire in any contract made in Ontario except,

(a) insurance falling within the classes of aircraft, automobile, boiler and machinery, inland transportation, marine, plate glass, sprinkler leakage and theft insurance;

(b) where the subject-matter of the insurance is rents, charges or loss of profits;

(c) where the peril of fire is an incidental peril to the coverage provided; or

(d) where the subject-matter of the insurance is property that is insured by an insurer or group of insurers primarily as a nuclear risk under a policy covering against loss of or damage to the property resulting from nuclear reaction or nuclear radiation and from other perils. 1956, c. 32, s. 8, part; 1959, c. 44, s. 2.

Automobiles (2) Notwithstanding subsection 1, this Part applies to insurance of an automobile as provided in subsection 2 of section 27. 1956, c. 32, s. 8, part.

Extent of coverage by contract 107.—(1) Subject to subsection 4 of this section and to clause a of section 116, in any contract to which this Part applies, the contract shall be deemed to cover the insured property,

(a) against fire (whether resulting from explosion or otherwise) not occasioned by or happening through,

(i) in the case of goods, their undergoing any process involving the application of heat,

(ii) riot, civil commotion, war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military power;

(b) against lightning, but excluding destruction or loss to electrical devices or appliances caused by lightning
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or other electrical currents unless fire originates outside the article itself and only for such destruction or damage as occurs from such fire;

(c) against explosion (not occasioned by or happening through any of the perils specified in subclause ii of clause a) of natural, coal or manufactured gas in a building not forming part of a gas works, whether fire ensues therefrom or not. 1956, c. 32, s. 9, part; 1957, c. 51, s. 5; 1958, c. 42, s. 1 (1).

(2) Unless a contract to which this Part applies otherwise specifically provides, it does not cover the insured property against loss or damage caused by contamination by radioactive material directly or indirectly resulting from fire, lightning or explosion within the meaning of subsection 1. 1958, c. 42, s. 1 (2), part.

(3) Where property insured under a contract covering at a specified location is necessarily removed to prevent loss or damage or further loss or damage thereto, that part of the insurance under the contract that exceeds the amount of the insurer's liability for any loss incurred covers, for seven days only or for the unexpired term of the contract if less than seven days, the property removed and any property remaining in the original location in the proportions that the value of the property in each of the respective locations bears to the value of the property in them all.

(4) Nothing in subsection 1 precludes an insurer giving more extended insurance against the perils mentioned therein, but in that case this Part does not apply to the extended insurance.

(5) An insurer licensed to carry on fire insurance may include in its insurance contracts a clause or endorsement providing that, in the case of live stock insured against death or injury caused by fire or lightning, the word "lightning" is deemed to include other electrical currents. 1956, c. 32, s. 9, part.

108. A contract may be renewed by the delivery of a renewal receipt, identifying the policy by number, date or otherwise, or a new premium note. R.S.O. 1950, c. 183, s. 106.

109. After an application for insurance is made, if it is in writing, any policy sent to the insured shall be deemed to be intended to be in accordance with the terms of the application, unless the insurer points out in writing the particulars wherein it differs from the application, in which case the insured may, within two weeks from the receipt of the notification, reject the policy. 1956, c. 32, s. 10.
110.—(1) Where the loss, if any, under a contract has, with the consent of the insurer, been made payable to a person other than the insured, the insurer shall not cancel or alter the policy to the prejudice of that person without notice to him.

(2) The length of and manner of giving the notice under subsection 1 is the same as notice of cancellation to the insured under the statutory conditions in the contract. 1956, c. 32, s. 11, par.

111.—(1) The conditions set forth in this section shall be deemed to be part of every contract in force in Ontario and shall be printed on every policy with the heading “Statutory Conditions” and no variation or omission of or addition to any statutory condition is binding on the insured.

(2) In this section, “policy” does not include interim receipts or binders.

STATUTORY CONDITIONS

Misrepresentation
1. If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge of the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

Property of Others
2. Unless otherwise specifically stated in the contract, the insurer is not liable for loss or damage to property owned by any person other than the insured, unless the interest of the insured therein is stated in the contract.

Change of Interest
3. The insurer is liable for loss or damage occurring after an authorized assignment under the Bankruptcy Act or change of title by succession, by operation of law, or by death.

Material Change
4. Any change material to the risk and within the control and knowledge of the insured avoids the contract as to the part affected thereby, unless the change is promptly notified in writing to the insurer or its local agent, and the insurer when so notified may return the unearned portion, if any, of the premium paid and cancel the contract, or may notify the insured in writing that, if he desires the contract to continue in force, he must, within fifteen days of the receipt of the notice, pay to the insurer an additional premium, and in default of such payment the contract is no longer in force and the insurer shall return the unearned portion, if any, of the premium paid.

Termination of Insurance
5.—(1) The insurance may be terminated:

(a) subject to the statutory provision relating to cases where loss under the contract has, with the consent of the insurer, been made payable to some person other than the insured, by the insurer giving to the insured at any time fifteen days notice of cancellation by registered mail, or five days notice of cancellation personally delivered, and, if the insurance is on the cash plan, by refunding the excess of premium actually paid by the insured beyond the pro rata premium for the expired time;
(b) if on the cash plan, by the insured giving written notice of termination to the insurer, in which case the insurer shall, upon surrender of this policy, refund the excess of premium actually paid by the insured beyond the customary short rate for the expired time.

(2) Repayment of the excess premium may be made by money, postal or express company money order, or by cheque payable at par.

(3) If the notice is given by registered letter the repayment shall accompany the notice.

(4) The fifteen days mentioned in clause a of subparagraph 1 of this condition commences to run from the day following the receipt of the registered letter at the post office to which it is addressed.

Requirements After Loss 6.—(1) Upon the occurrence of any loss of or damage to the insured property, the insured shall, if the loss or damage is covered by the contract, in addition to observing the requirements of conditions 9, 10 and 11,

(a) forthwith give notice thereof in writing to the insurer;

(b) deliver as soon as practicable to the insurer a proof of loss verified by a statutory declaration,

(i) giving a complete inventory of the destroyed and damaged property and showing in detail quantities, costs, actual cash value and particulars of amount of loss claimed,

(ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated, so far as the insured knows or believes,

(iii) stating that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured,

(iv) showing the amount of other insurances and the names of other insurers,

(v) showing the interest of the insured and of all others in the property with particulars of all liens, encumbrances and other charges upon the property,

(vi) showing any changes in title, use, occupation, location, possession or exposures of the property since the issue of the contract,

(vii) showing the place where the property insured was at the time of loss;

(c) if required, give a complete inventory of undamaged property and showing in detail quantities, cost, actual cash value;

(d) if required and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers verified by statutory declaration, and furnish a copy of the written portion of any other contract.

(2) The evidence furnished under clauses c and d of subparagraph 1 of this condition shall not be considered proofs of loss within the meaning of conditions 12 and 13.

Fraud 7. Any fraud or wilfully false statement in a statutory declaration in relation to any of the above particulars, vitiates the claim of the person making the declaration.

Who may give notice and proof 8. Notice of loss may be given and proof of loss may be made by the agent of the insured named in the contract in case of absence or inability of the insured to give the notice or make the proof, and absence or inability being satisfactorily accounted for, or in the like case, or if the insured refuses to do so, by a person to whom any part of the insurance money is payable.
Salvage 9.-(1) The insured, in the event of any loss or damage to any property insured under the contract, shall take all reasonable steps to prevent further damage to such property so damaged and to prevent damage to other property insured hereunder including, if necessary, its removal to prevent damage or further damage thereto.

(2) The insurer shall contribute pro rata towards any reasonable and proper expenses in connection with steps taken by the insured and required under subparagraph 1 of this condition according to the respective interests of the parties.

Entry, Control, Abandonment 10. After loss or damage to insured property, the insurer has an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and, after the insured has secured the property, a further right of access and entry sufficient to enable them to make appraisal or particular estimate of the loss or damage, but the insurer is not entitled to the control or possession of the insured property, and without the consent of the insurer there can be no abandonment to it of insured property.

Appraisal 11.-(1) If any difference arises as to the value of the property insured, the property saved or the amount of the loss, that value and amount shall, whether the right to recover on the contract is disputed or not, be ascertained by two competent and disinterested appraisers, the insured and the insurer each selecting one, and the two so chosen then selecting a competent and disinterested umpire.

(2) The appraisers together shall then estimate and appraise the loss or damage, stating separately the sound values and damage and, failing to agree, shall submit their differences to the umpire, and the finding in writing of any two determines the value of the property insured, the property saved and the amount of loss.

(3) The parties thereto shall pay the appraisers respectively selected by them and shall bear equally the expense of the appraisal and umpire.

When Loss Payable 12. The loss is payable within sixty days after completion of the proof of loss, unless the contract provides for a shorter period.

Replacement 13.-(1) The insurer, instead of making payment, may repair, rebuild, or replace the property damaged or lost, giving written notice of its intention so to do within thirty days after receipt of the proofs of loss.

(2) In that event the insurer shall commence to so repair, rebuild, or replace the property within forty-five days after receipt of the proofs of loss, and shall thereafter proceed with all due diligence to the completion thereof.

Action 14. Every action or proceeding against the insurer for the recovery of a claim under or by virtue of this contract is absolutely barred unless commenced within one year next after the loss or damage occurs.

Notice 15.-(1) Any written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or office of the insurer in Ontario or delivered or so sent to any authorized agent of the insurer therein.

(2) Written notice may be given to the insured by letter personally delivered to him or by registered letter addressed to him at his latest post office address notified to the insurer, or, where no address is notified and the address is not known, addressed to him at the post office of the agency, if any, from which the application was received.

1956, c. 32, s. 11, part.
112. In case a party fails to name an appraiser under statutory condition 11 of section 111 within seven clear days after being served with written notice so to do, or in case the appraisers fail to agree upon an umpire within fifteen days after their appointment, or in case an appraiser or umpire refuses to act or is incapable of acting or dies, a judge of the county or district court of the county or district in which the appraisal is to be made may appoint an appraiser or umpire, as the case may be, upon the application of the insured or of the insurer. 1958, c. 42, s. 2.

113. A contract containing,

(a) a deductible clause; or

(b) a co-insurance, average or similar clause; or

(c) a clause limiting recovery by the insured to a specified percentage of the value of any property insured at the time of loss, whether or not that clause is conditional or unconditional,

shall have printed or stamped upon its face in red ink the words "This policy contains a clause that may limit the amount payable", failing which the clause is not binding upon the insured. 1959, c. 44, s. 4.

114.—(1) Where on the happening of any loss or damage to property insured there is in force more than one contract covering the same interest, each of the insurers under the respective contracts is liable to the insured for its rateable proportion of the loss, unless it is otherwise expressly agreed in writing between the insurers.

(2) For the purpose of subsection 1, a contract shall be deemed to be in force notwithstanding any term thereof that the policy will not cover, come into force, attach or become insurance with respect to the property until after full or partial payment of any loss under any other policy.

(3) Nothing in subsection 1 affects the validity of any divisions of the sum insured into separate items, or any limits of insurance on specified property, or any clause referred to in section 113 or any contract condition limiting or prohibiting the having or placing of other insurance.

(4) Nothing in subsection 1 affects the operation of any deductible clause and,

(a) where one contract contains a deductible, the pro rata proportion of the insurer under that contract shall be first ascertained without regard to the clause and then the clause shall be applied only to affect the amount of recovery under that contract; and
(b) where more than one contract contains a deductible, the pro rata proportion of the insurers under those contracts shall be first ascertained without regard to the deductible clauses and then the highest deductible shall be pro rated among the insurers with deductibles and these pro rated amounts shall affect the amount of recovery under those contracts. 1956, c. 32, s. 13, part.

(5) Nothing in subsection 4 shall be construed to have the effect of increasing the pro rata contribution of an insurer under a contract that is not subject to a deductible clause. 1959, c. 44, s. 5.

(6) Notwithstanding subsection 1, insurance on identified articles is a first loss insurance as against all other insurance. 1956, c. 32, s. 13, part.

Where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured and a consequent forfeiture or avoidance of the insurance, in whole or in part, and the court deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as seem just. 1956, c. 32, s. 15.

Where a contract,

(a) excludes any loss that would otherwise fall within the coverage prescribed by section 107; or

(b) contains any stipulation, condition or warranty that is or may be material to the risk including, but not restricted to, a provision in respect to the use, condition, location or maintenance of the insured property,

the exclusion, stipulation, condition or warranty is not binding upon the insured, if it is held to be unjust or unreasonable by the court before which a question relating thereto is tried. 1956, c. 32, s. 16, part.

(1) No term or condition of a contract shall be deemed to be waived by the insurer in whole or in part unless the waiver is clearly expressed in writing signed by a person authorized for that purpose by the insurer.

(2) Neither the insurer nor the insured shall be deemed to have waived any term or condition of a contract by any act relating to the appraisal of the amount of loss or to the delivery and completion of proofs, or to the investigation or adjustment of any claim under the contract. 1956, c. 32, s. 16, part.
118.—(1) The insurer, upon making a payment or assuming liability therefor under a contract of fire insurance, is subrogated to all rights of recovery of the insured against any person, and may bring action in the name of the insured to enforce such rights.

(2) Where the net amount recovered, after deducting the costs of recovery, is not sufficient to provide a complete indemnity for the loss or damage suffered, that amount shall be divided between the insurer and the insured in the proportions in which the loss or damage has been borne by them respectively. 1956, c. 32, s. 16, part.

PREMIUM NOTES AND ASSESSMENTS

119.—(1) Sections 120 to 136 apply only to mutual and cash-mutual fire insurance corporations and, saving sections 121, 122 and 132, to mutual live stock and mutual weather insurance corporations that carry on business on the premium note plan.

(2) No licensed insurer shall carry on, on the premium note plan, any class of insurance other than fire, live stock and weather insurance.

(3) Sections 120 to 136 apply only to contracts made in Ontario. R.S.O. 1950, c. 183, s. 114.

120.—(1) The insurer may accept the premium note of the insured for insurance and may undertake contracts in consideration thereof and such notes are subject to cash payments and assessments for the losses, expenses and reserve of the insurer in the manner hereinafter provided.

(2) The premium note shall be in the form prescribed by Schedule B.

(3) Nothing but the notice provided by section 133 shall be written upon the same paper upon which the premium note is written, and a contravention of this section renders the premium note void. R.S.O. 1950, c. 183, s. 115.

121. The rate to be charged or taken by way of premium note for insuring agricultural property, other than brick, stone or concrete dwellings, shall be not less than $3 for three years for every $100 of insurance, and the minimum rate upon other property may be increased or decreased relatively with the risk according to the nature of the property. R.S.O. 1950, c. 183, s. 116.

122.—(1) Subject to subsection 3, the directors shall require at the time of the application for insurance of agricultural property, other than brick, stone or concrete dwellings,
a cash payment on the premium note of not less than 80 cents for three years for every $100 of insurance and may require a larger or smaller cash payment at the time of the application for the insurance of other property, but not more than 60 per cent of any premium note shall be paid in cash at the time of the application for or of effecting the insurance.

(2) The cash payment required at the time of the application for insurance of agricultural property, other than brick, stone or concrete dwellings, may be reduced with the approval of the Superintendent by the directors when and so long as the surplus of the insurer is not less than 25 cents for every $100 of the total net amount at risk.

(3) Instead of requiring the cash payment to be paid in full at the time of the application for insurance, the directors may make the cash payment payable in three equal annual instalments of not less than 30 cents each for every $100 of insurance on agricultural property, other than brick, stone or concrete dwellings, and pro rata on other property, the first of which shall be due and payable at the time of the application for insurance and the remaining instalments shall be respectively due and payable on the first day of each subsequent year of the term of insurance. R.S.O. 1950, c. 183, s. 117 (1-3).

(4) In this section and in section 123, "surplus" means the assets of the insurer other than the premium note residue after deducting therefrom all liabilities of the insurer (other than contingent liabilities on unmatured contracts) and the proportion of cash payments and instalments thereof paid in advance applicable to unexpired policy contracts calculated as required by subsection 5 of section 76, R.S.O. 1950, c. 183, s. 117 (4); 1953, c. 48, s. 2 (1).

123.—(1) The directors may declare a refund from surplus,

(a) if on the effective date of the refund the net surplus of the insurer after deducting the total amount of the refund is, in terms of cents per hundred dollars of net insurance in force, not less than the amount set out in the following table, or, in the case of an insurer with less than $2,000,000 of net insurance in force, such other amount as is approved by the Superintendent;

(b) if, except as hereinafter provided, the refund applies on all policies in force on the effective date thereof;

(c) if the refund on each policy is in the same ratio to the total refund as the face value of the premium note is to the total face value of all premium notes in
force at date of refund, or, that the refund on each policy is a fixed percentage of the annual instalment or of one-third of the cash payment for three years in advance, as the case may be; and

(d) if the by-laws of the insurer require that refunds be payable only to members insured continuously in the insurer during the three years preceding the effective date of the refund.

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<td>When the total net amount at risk is greater than $125,000,000—$0.40</td>
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<td>When the total net amount at risk is greater than 75,000,000—0.50</td>
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<td>When the total net amount at risk is greater than 25,000,000—0.60</td>
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<td>When the total net amount at risk is greater than 10,000,000—0.70</td>
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<td>When the total net amount at risk is greater than 5,000,000—0.80</td>
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<td>When the total net amount at risk is greater than 2,000,000—1.00</td>
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(2) Subsection 1 does not apply to cash-mutual fire insurance corporations, or to an insurer the surplus of which as defined by subsection 4 of section 122 exceeds 10 per cent of the total amount at risk.

(3) Subject to the exceptions in subsection 2, subsection 1 applies to any distribution of surplus to members, other than a distribution for the purposes of winding up or re-insurance of the insurer. 1953, c. 48, s. 3.

124.—(1) No insurer shall make a contract on the premium note plan covering agricultural property for a term exceeding twelve months without a written application therefor signed by the applicant, or, in case of the absence of the applicant or his inability to make the application, by his agent, other than the agent of the insurer, or by a person having an insurable interest in the property.

(2) Every written application shall set forth the name, address and occupation of the applicant, the description, location and occupancy of the property to be insured, its value, particulars of any mortgage, lien or other encumbrance thereon, the purpose for which and the location in which any moveable property is deposited or used, particulars of any claims made by the applicant in respect of insured loss or damage by fire, whether any insurer has cancelled any fire insurance policy of or refused fire insurance to the applicant, particulars of any other fire insurance on the same property, and such other information as the insurer or the Superintendent requires. R.S.O. 1950, c. 183, s. 118.

125.—(1) The cash payment or instalments thereof required to be paid by section 122 at the time of the application for insurance shall be applied in part payment of the premium note, and the premium note residue is subject to assessments.
by the directors, with the approval of the Superintendent, in such sums and at such times as they determine for reserve and for losses and expenses incurred during the currency of the policies for which the notes were given.

When due

(2) An assessment is due and payable within thirty days after notice stating the amount and date of the assessment has been given in the manner hereinafter provided.

How fixed

(3) An assessment shall be fixed as a percentage of the face amount of the premium note, and all assessments are payable on the same date and at the same rate per cent. R.S.O. 1950, c. 183, s. 119.

Penalty for default in payments

126.—(1) Default in making the cash payment or any instalment thereof within thirty days after notice of it becoming due or of its non-payment when due has been given in the manner hereinafter provided, or default in paying any assessment authorized by the directors within thirty days after notice has been given as required by subsection 2 of section 125, unless the directors determine otherwise, renders the contract of insurance void as to all claims for loss occurring during the time of default, but, subject thereto, the contract is revived if and when the cash payment or instalments thereof or the assessment so in default has been paid.

(2) Nothing in this Act relieves the insured of his liability to pay the cash payment and all assessments lawfully imposed by the directors during the full term of the policy or within forty days thereafter in respect of which the prescribed notice has been given or prejudices the right of the insurer after giving the required notice to sue for and recover the same with the costs of the suit.

(3) Where an action is brought to recover an assessment, the certificate of the secretary of the insurer specifying the assessment and the amount due on the note in respect of such assessment is admissible in evidence as prima facie proof thereof in any court. R.S.O. 1950, c. 183, s. 120.

Liability of Insured

127.—(1) The notices required to be given by sections 125 and 126 are sufficient if mailed to the person by whom the cash payment, or any instalment thereof, or the assessment, as the case may be, is payable, addressed to his post office address given in the original application, or otherwise given in writing, to the insurer, and, if it states the register number of the contract, the time when, and the place where, the amount is payable.

(2) Subsection 1 of section 126 shall be printed in full upon the face of all such notices.
(3) If the property insured has been mortgaged and the insurer has assented to the mortgage, the notices respecting assessments and cash payments required to be mailed to the payee shall also be mailed to the mortgagee if his post office address is known to the insurer, and, if notice is not so given, the contract shall be deemed to be valid and subsisting as to the interest of the mortgagee. R.S.O. 1950, c. 183, s. 121.

128. Forty days after the expiration of the term of insurance or after the insured has sustained a total loss in respect of the property insured, the premium note given for the term is void except as to the cash payment or instalments thereof remaining unpaid and as to lawful assessments of which the prescribed written notice has been given to the maker of the premium note during the currency of the policy or within such period of forty days, and on the expiration of such period the premium note shall upon application therefor be surrendered to the maker, if all liabilities with which the premium note is chargeable have been paid. R.S.O. 1950, c. 183, s. 122.

129. If there is a loss on property insured, the directors may retain out of the insurance money the cash payment or any instalments thereof, or any lawful assessment due and payable and remaining unpaid by the insured. R.S.O. 1950, c. 183, s. 123.

130. The directors may reinsure any risk undertaken on the premium note plan with any other insurer of the same class, and may authorize the execution of a premium note by the proper officer of the insurer, and the insurer in respect of such reinsurance contract has the same rights and is subject to the same obligations as a member of the reinsurer. R.S.O. 1950, c. 183, s. 124.

131.—(1) Subject to the approval of the Superintendent, the directors of an insurer licensed to transact insurance on the premium note plan may enter into a general reinsurance agreement with any other insurer of the same class for the reinsurance of risks on such terms and conditions as are agreed upon.

(2) Such agreement may dispense with the issue of policies and notes unnecessary for reinsurance on the cash plan.

(3) Such agreement shall be in writing and under the corporate seals of the parties thereto. R.S.O. 1950, c. 183, s. 125.

132.—(1) Subject to subsection 4, no insurer shall undertake any risk on the premium note plan that is subject to the
hazard of a single fire for an amount greater than that allowed by the following table unless the risk is reinsured to an amount sufficient to reduce the net liability of the insurer to the amount authorized in the table:

<table>
<thead>
<tr>
<th>Condition</th>
<th>Penalty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Where the total amount at risk is less than $5,000,000</td>
<td>$4,000</td>
</tr>
<tr>
<td>Where the total amount at risk is $5,000,000 or more but less than $10,000,000</td>
<td>6,000</td>
</tr>
<tr>
<td>Where the total amount at risk is $10,000,000 or more</td>
<td>8,000</td>
</tr>
</tbody>
</table>

R.S.O. 1950, c. 183, s. 126 (1); 1958, c. 42, s. 3; 1959, c. 44, s. 6 (1).

(2) A risk subject to the hazard of a single fire shall be deemed to include, in the case of agricultural property, other than brick, stone or concrete dwellings, the total amount at risk on barns, outbuildings, contents, machinery, and all other items in connection therewith except live stock or a dwelling distant more than 80 feet from any other insured farm building, and in all other cases the total amount at risk on buildings or their contents where the buildings are distant less than 80 feet from each other.

(3) Where an insurer fails to reinsure a risk that is subject to the hazard of a single fire and for an amount greater than that allowed by the table set out in subsection 1, the Minister, on the report of the Superintendent, may suspend or cancel the licence of the insurer. R.S.O. 1950, c. 183, s. 126 (2, 3).

(4) An insurer may undertake risks on the premium note plan in excess of the amounts authorized by subsection 1 where it has entered into a general reinsurance agreement with other insurers of the same class, approved by the Superintendent, whereby each insurer party to the agreement is provided with reinsurance on a plan covering in whole or in part the amount of losses in excess of its normal loss ratio as determined under the provisions of the plan. 1959, c. 44, s. 6 (2).

(5) Nothing in this section renders a contract invalid as against the insured.

(6) This section does not apply to an insurer that is restricted by its licence to the insurance against fire and lightning of buildings, plant and stock of millers and grain dealers used in connection with the grain trade and the dwellings, outbuildings and contents thereof owned by such millers and grain dealers or their employees when and so long as its surplus as defined by subsection 4 of section 122 exceeds 10 per cent of the total amount at risk. R.S.O. 1950, c. 183, s. 126 (4, 5).

133. An action upon a premium note or for an assessment thereon cognizable in a division court may be entered, tried and determined in the court for the division in which the
head office or an agency of the insurer is located, where and where only within the body of the note, or across the face thereof, there was at the time of the making of it printed in conspicuous type, or in ink of a colour different from any other in or on the note, the words following: "An action that may be brought or commenced in a division court in respect or on account of this note, or any sum to be assessed thereon, may be brought and commenced against the maker thereof in the division court for the division in which the head office or an agency of the insurer is located." R.S.O. 1950, c. 183, s. 127.

134. A premium note does not create a lien upon the land on which the insured property is situate. R.S.O. 1950, c. 183, s. 128.

135.—(1) An insurer licensed to transact cash-mutual fire insurance may effect insurance upon the cash plan, but the amount of premiums received on cash insurances in any one calendar year shall not exceed four times the amount that the insurer has then on deposit with the Minister.

(2) If at any time the amount of such premiums exceeds the amount authorized by subsection 1, the insurer shall at once increase its deposit to an amount sufficient to warrant the excess, and in default the Minister may suspend or cancel its licence.

(3) All the property and assets of the insurer, including premium notes, are liable for all losses under contracts of insurance for cash premiums. R.S.O. 1950, c. 183, s. 129.

136.—(1) No execution shall issue against a mutual or cash-mutual insurer upon a judgment until after the expiration of sixty days from the recovery thereof, but this section does not apply to a judgment recovered on a contract of insurance where more than 60 per cent of the premium, or premium note, was paid in cash at the time of the insurance or the application therefor. R.S.O. 1950, c. 183, s. 130 (1).

(2) A judge of the Supreme Court or the master after the recovery of a judgment against the insurer, upon the application of the judgment creditor and upon notice to the insurer, may inquire into the facts, and, if he finds that more than 60 per cent of the premium note was paid in cash at the time of the insurance or upon the application therefor, he may direct that execution be issued forthwith upon such judgment. R.S.O. 1950, c. 183, s. 130 (2), amended.
PART V

LIFE INSURANCE

137. In this Part, unless the context otherwise requires,

1. "adopted child" means a person who has been adopted by another person as his child and by reason thereof is entitled under the law of the place of adoption to inherit real property from that other person, if he dies intestate;

2. "adopting parent" means a person who has adopted another person as his child and by reason thereof is entitled under the law of the place of adoption to inherit real property from that other person, if he dies intestate;

3. "beneficiary" means a person designated or appointed as one to whom or for whose benefit insurance money is to be payable;

4. "child" and "issue" include an adopted child;

5. "contract", "contract of insurance" and "contract of life insurance" mean a contract of life insurance, and include any other contract that an insurer may issue under the authority of a licence to transact life insurance;

6. "court" means the Supreme Court or a judge thereof;

7. "creditor's group life insurance" means life insurance effected by a creditor on the lives of his debtors whereby the lives of the debtors are insured severally under a single contract;

8. "declaration" means an instrument in writing signed by the insured, attached to or endorsed on a policy, or an instrument in writing, signed by the insured in any way identifying the policy or describing the subject of the declaration as the insurance or insurance fund or a part thereof or as the policy or policies of the insured or using language of like import, by which the insured designates or appoints a beneficiary or beneficiaries, or alters or revokes the designation or appointment of a beneficiary or beneficiaries, or apportions or reapportions, or appropriates or re-appropriates, insurance money between or among beneficiaries;

9. "foreign jurisdiction" means a jurisdiction other than Ontario;
10. "fraternal society" means a society, order or association incorporated for the purpose of making with its members only and not for profit contracts of life, accident or sickness insurance under which benefits may be paid only to its members or their beneficiaries, in accordance with its constitution and laws and the provisions of this Act;

11. "group life insurance" means life insurance, other than creditor's group life insurance, whereby the lives of a number of persons are insured severally under a single contract between an insurer and an employer or other person contracting with the insurer;

12. "instrument in writing" includes a last will;

13. "insurance" means life insurance;

14. "insurance money" includes all insurance money, benefits, surplus, profits, dividends, bonuses and annuities payable by an insurer under a contract of insurance;

15. "insured" means the person who makes a contract with an insurer;

16. "insurer" includes a corporation, or a society or association, incorporated or unincorporated, a fraternal society or a person or partnership, or an underwriter or group of underwriters, that undertakes or effects, or agrees or offers to undertake or effect, a contract of insurance;

17. "judge" means a judge of the court;

18. "parent", "father" and "mother" include an adopting parent of the same sex respectively;

19. "person" includes a firm, partnership and corporation and an unincorporated society or association;

20. "premium" means the single or periodical payment to be made for the insurance, and includes dues and assessments;

21. "will" includes a codicil. R.S.O. 1950, c. 183, s. 131.

138.—(1) Notwithstanding any agreement, condition or stipulation to the contrary, this Part applies to every contract of life insurance made in Ontario after the 1st day of January, 1925, and any term in such a contract inconsistent with this Part is void.
(2) This Part applies to every contract of life insurance made in Ontario before the 1st day of January, 1925, where the maturity of the contract had not occurred before that date.

(3) This Part applies to every other contract of life insurance made after the 1st day of January, 1925, where the contract provides that this Part applies or that the contract shall be construed or governed by the law of Ontario.

(4) Where this Part applies to a contract, the rights and status of beneficiaries and the powers of the insured with regard to the designation or appointment of beneficiaries and the apportionment of the insurance money is governed by this Part, whether or not the insured or any of the beneficiaries is domiciled in Ontario at the time at which the contract is made, or at any time subsequent thereto.

(5) This section does not apply to a contract of group life insurance. R.S.O. 1950, c. 183, s. 132.

139. In the case of a contract of group life insurance, whether made before or after the 30th day of June, 1948,

(a) the law of the place where the contract was made applies between the insurer and the insured;

(b) the law of the place where the person whose life is insured was resident at the time his life became insured applies in determining the rights and status of beneficiaries and the rights and obligations of the person whose life is insured. R.S.O. 1950, c. 183, s. 133.

140.—(1) A contract shall be deemed to be made in Ontario,

(a) if the place of residence of the insured is stated in the application or the policy to be in Ontario; or

(b) if neither the application nor the policy contains a statement as to the place of residence of the insured, but the actual place of residence of the insured is within Ontario at the time of the making of the contract.

(2) This section does not apply to a contract of group life insurance. R.S.O. 1950, c. 183, s. 134.

THE CONTRACT OF INSURANCE

141. Every contract of insurance shall be evidenced by an instrument in writing called, in this Part, a policy. R.S.O. 1950, c. 183, s. 135.
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142.—(1) Every policy issued after the 1st day of January, 1925, other than a group life insurance policy, shall state the name or sufficient designation of the insured, of the person whose life is insured, and of the beneficiary, the insurance money payable, the manner of payment, the premium, and the facts that determine the maturity of the contract.

(2) Every group life insurance policy shall state the name or sufficient designation of the insured, the method of determining the amount of insurance on each life and the persons or classes of persons whose lives are insured, and the facts that determine the manner and time of payment of the insurance money and the amount of the premium.

(3) Every policy shall state the period of grace within which the premiums may be paid and the terms and conditions upon which the policy may, if it lapses, be reinstated, and shall indicate the amount, if any, of cash surrender or loan value and the options, if any, of the insured as to paid up or extended insurance respectively provided by the policy.

(4) Every policy shall further indicate whether or not it will participate in any surplus or profits that may be declared.

(5) Every policy that includes disability insurance shall further state what notice of disablement shall be given to the insurer.

(6) In the case of a contract of group life insurance made after the 30th day of June, 1948, the insurer shall issue, for delivery by the insured to each person whose life is insured under the policy, a certificate identifying the policy and stating the name or sufficient designation of the person whose life is insured, of his beneficiary, of the insurer, and of the insured, and stating the amount or the method of determining the amount of insurance and indicating any right of the person whose life is insured upon termination of insurance on his life under the policy.

(7) This section does not apply to a contract of insurance made by a fraternal society. R.S.O. 1950, c. 183, s. 136.

143.—(1) Except as provided in subsection 2, in the case of group life insurance, the employer or other person making the contract with the insurer is the insured for the purposes of this Part.

(2) In the case of group life insurance, the term "insured", in the provisions of this Part relating to the designation or appointment of beneficiaries and the rights and status of beneficiaries, means the person whose life is insured. R.S.O. 1950, c. 183, s. 137.
144. Where the amount of insurance money, exclusive of dividends and bonus, does not exceed $2,000, the policy, notwithstanding that it is expressed to be payable to a named or designated beneficiary, may provide that the insurance money may be paid to any relative by blood or connection by marriage of the person whose life is insured or any other person appearing to the insurer to be equitably entitled to it by reason of having incurred expense for the maintenance, medical attendance or burial of the person whose life is insured or to have a claim against the estate of the person whose life is insured in relation thereto. R.S.O. 1950, c. 183, s. 138.

145.—(1) Except in the case of a contract made with a fraternal society, no term or condition of a contract of insurance that is not set out in full in the policy or in a document or documents in writing attached to it, when issued, is valid or admissible in evidence to the prejudice of the insured or a beneficiary.

(2) Subsection 1 does not apply to an alteration or modification of the contract agreed upon in writing by the insurer and the insured after the issue of the policy.

(3) In the case of a contract of insurance made by a fraternal society, the policy, the Act or instrument of incorporation of the society, its constitution and laws and the amendments validly made thereto, and the application for the contract and medical examination of the applicant as signed by him, constitutes the contract between the society and its member. R.S.O. 1950, c. 183, s. 139.

146.—(1) The applicant for a contract and the person whose life is to be insured shall each disclose to the insurer in the application for the contract, on the medical examination, if any, or in any statements or answers furnished in lieu of a medical examination every fact within his knowledge that is material to the contract, and a failure to disclose or misrepresentation of any such fact by either person renders the contract voidable at the instance of the insurer.

(2) The statements made by the insured, or the person whose life is insured, in the application, on the medical examination, if any, or in any statements or answers furnished in lieu of a medical examination, other than fraudulent statements or statements erroneous as to age, are deemed to be true and incontestable after the insurance on the person whose life is insured has been in force for two years during his lifetime, but this provision does not apply with respect to disability insurance or double indemnity insurance. R.S.O. 1950, c. 183, s. 140.
147. A failure to disclose or misrepresentation of a fact material to the contract by the insurer renders the contract voidable at the instance of the insured, but, in the absence of fraud, the contract is not by reason of such failure to disclose or misrepresentation voidable after the contract has been in force for two years during the lifetime of the person whose life is insured. R.S.O. 1950, c. 183, s. 141.

148. The question of materiality is one of fact. R.S.O. 1950, c. 183, s. 142.

149.—(1) Where the age of the person whose life is insured is understated in the application, the insurance money shall be reduced to the amount that would have been payable in respect of the premium stated in the policy at the correct age, according to the tables of rates of premium of the insurer in force at the time of the issue of the policy.

(2) Where such tables of rates of premium of the insurer do not extend to or include the rates for the correct age of the person whose life is insured, the insurance money shall be reduced in the proportion that the premium at the age stated in the application bears to the premium at the correct age, both premiums for this purpose being the net premiums shown in or deduced from the British Offices' Life Table, 1893, QM(5), the rate of interest being 3½ per cent per annum, or, at the option of the insurer, both premiums for this purpose being calculated on the same principles as govern the calculation of premiums for ages mentioned in the table of rates of premium of the insurer in force at the time of the issue of the policy.

(3) Where the age of the person whose life is insured is overstatement, and the policy does not provide that in that event the insurance money shall be increased, the insurer shall repay the amount by which the premium paid exceeds the premium that would have been payable in respect of the correct age, but, if the policy so provides, the insurance money shall be increased to the amount that would have been payable in respect of the premium stated in the policy at the correct age according to the tables of rates of premium of the insurer in force at the time of the issue of the policy.

(4) Where, by the terms or for the purposes of the contract, an addition is made to the age stated in the application, and the age is understated in the application, then, for the purpose of the calculation, the correct age and the stated age shall respectively be deemed to be the correct age and the stated age increased by such addition.
Where insurable age expressly limited

(5) Where the application or contract expressly limits the insurable age, and the correct age at the date of the application exceeds the age so limited, the contract, during the lifetime of the person whose life is insured, but not later than five years from the date of the policy, is voidable at the option of the insurer within thirty days after the error comes to its knowledge.

Exception

(6) This section does not apply to a contract of group life insurance. R.S.O. 1950, c. 183, s. 143.

Age

150. If a contract of group life insurance provides that the age of a person whose life is insured affects the commencement or the termination of the insurance or the amount thereof or any other right or benefit under the contract, the true age governs. R.S.O. 1950, c. 183, s. 144.

Conditions precedent to contract taking effect

151.—(1) Unless the contract or the application otherwise expressly provides, the contract does not take effect and is not binding on either party until the policy is delivered to the insured, his assign, or agent, or the beneficiary named therein and payment of the first premium is made to the insurer or its duly authorized agent, no change having taken place in the insurability of the life about to be insured subsequent to the completion of the application.

(2) Subject to section 152, where a cheque, bill of exchange or promissory note payable to the insurer, or other written promise to pay the insurer, is given, whether originally or by way of renewal, for the whole or part of a premium, and the cheque, bill of exchange or promissory note or other written promise to pay is not paid according to its tenor, the contract, unless otherwise provided in the policy, is void. R.S.O. 1950, c. 183, s. 145.

Effect of default in payment of premium

152.—(1) Where a premium, not being the initial premium, under a contract is unpaid, the insured, his assign or agent, or any beneficiary, may, within a period of grace of thirty days or, in the case of an industrial contract, four weeks from and excluding the day on which the premium is due, pay, deliver or tender to the insurer at its head office, or at its chief agency in Ontario, or to its collector or authorized agent, the sum in default.

(2) The payment may be made by sending a post office money order, or a cheque payable at par and certified by a bank doing business in Canada under the Bank Act (Canada), or a draft of such bank, or a money order of an express company doing business in Ontario, in a registered letter duly addressed to the insurer, and the payment, delivery or tender shall be deemed to have been made at the time of the delivery and registration of the letter at a post office.
(3) Such payment, delivery or tender has the same effect as if made at the due date of the premium.

(4) The period of grace allowed by this section runs concurrently with the period of grace, if any, allowed by the contract for the payment of a premium or of an instalment of premium.

(5) Upon the maturity of the contract during the period of grace and before the overdue premium is paid, the contract shall be deemed to be in as full force and effect as if the premium had been paid at its due date, but the amount of such premium with interest, not in excess of 6 per cent per annum, and the balance, if any, of the current year's premium, may be deducted from the insurance money.

(6) Nothing in this section deprives the insured of the benefit of any period of grace allowed by the contract in excess of the period of grace allowed by this section. R.S.O. 1950, c. 183, s. 146.

153.—(1) Where a contract lapses and its cash value has not been paid and any options as to paid up or extended insurance have not been exercised, the insured is entitled to have the contract reinstated upon application within two years, or, in the case of an industrial contract, within one year, from the date of lapse upon the production of evidence of good health and other evidence of insurability of the person whose life was insured satisfactory to the insurer as at the date of the application for reinstatement and upon payment of all overdue premiums and other indebtedness to the insurer under the contract, with interest at such rate not exceeding 6 per cent per annum compounded annually, as the contract provides, and provided that no change has taken place in such good health and insurability subsequently to the date of such application and before the contract is reinstated.

(2) Where an application is made to reinstate a contract and the contract is reinstated, section 146 mutatis mutandis applies, and the period of two years referred to in subsection 2 of that section runs from the date of reinstatement.

(3) If the contract that lapsed provided that in the event of the suicide of the person whose life was insured within a period of time fixed thereby it should be void or that the amount payable thereunder should be reduced, and after the contract is reinstated such person commits suicide within a period of time commencing with the date of reinstatement and of the same duration as the period of time fixed by the contract, the reinstated contract is likewise void, or the amount payable thereunder is likewise reduced.
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(4) This section does not apply to a contract of insurance made by a fraternal society or to a contract of group life insurance. R.S.O. 1950, c. 183, s. 147.

Duty of insurer to furnish copy of application

154. The insurer shall, upon request, furnish to the insured a true copy of the application for the insurance. R.S.O. 1950, c. 183, s. 148.

Meaning of "heirs" and like words in contract or declaration

155.—(1) Except in the case of contracts of fraternal societies entered into before the 1st day of January, 1937, where by a contract or declaration the insured appoints as beneficiaries or appoints or apportions insurance money to his "heirs", "legal heirs", "lawful heirs" or "next of kin", the appointment or apportionment shall be deemed to be for the benefit of the estate of the insured.

(2) In the case of contracts of fraternal societies entered into before the 1st day of January, 1937, where by a contract or declaration the insured appoints as beneficiaries or appoints or apportions insurance money to his "heirs", "legal heirs", "lawful heirs" or "next of kin", the appointment or apportionment shall be deemed to be in favour of the persons provided by the law of the province, state or country in which the insured was domiciled at the time of his death respecting the distribution of the personal property of an intestate, and the insurance money so appointed or apportioned shall be paid to those persons in the shares provided by that law, and the insurance money does not form part of the estate of the insured. R.S.O. 1950, c. 183, s. 149.

Certain persons not to be deemed agents of insured

156. No officer, agent, employee or servant of the insurer or any person soliciting insurance, whether an agent of the insurer or not, shall to the prejudice of the insured be deemed to be for any purpose whatever the agent of the insured in respect of any question arising out of the contract of insurance. R.S.O. 1950, c. 183, s. 150.

INSURABLE INTEREST

157. Every person has an insurable interest in his own life. R.S.O. 1950, c. 183, s. 151.

158. Without restricting the meaning that "insurable interest" has in law, each of the following persons has an insurable interest:

1. A parent in the life of his child under twenty-five years of age.
2. A husband in the life of his wife.
3. A wife in the life of her husband.
4. One person in the life of another, upon whom he is wholly or in part dependent for support or education, or from whom he is receiving support or education.

5. A corporation or other person in the life of its or his officer or employee.

6. A person who has a pecuniary interest in the duration of the life of another person, in the life of that person. R.S.O. 1950, c. 183, s. 152.

159. A contract is void if, at the time at which it would otherwise take effect and be binding, the insured has no insurable interest. R.S.O. 1950, c. 183, s. 153.

160. Where the insured has at the time at which the contract takes effect an insurable interest in the life insured, it is not necessary for the validity of the contract or an assignment that a beneficiary, or a person claiming under an assignment, or by will or by succession, has an insurable interest. R.S.O. 1950, c. 183, s. 154.

POLICIES ON THE LIVES OF MINORS

161. A minor, after attaining the age of fifteen years, has the capacity of a person of full age,

(a) to effect a contract of insurance on his own life and to deal with the contract;

(b) to deal with a contract of insurance on his own life effected by him before attaining the age of fifteen years;

(c) to deal with his interest in a contract of insurance effected on his life by another, whether effected before or after the minor attained the age of fifteen years;

(d) if married, to effect a contract of insurance on the life of his wife or her husband or his or her children, as the case may be, and to deal with the contract. R.S.O. 1950, c. 183, s. 155.

162.—(1) No insurer shall pay on the death of a child who has not attained the age of five years an amount that alone or together with any amount payable on the death of the child by another insurer exceeds the following amount:

1. $200 if the child dies before attaining the age of one year.

2. $400 if the child dies after attaining the age of one year but before attaining the age of two years.

3. $600 if the child dies after attaining the age of two years but before attaining the age of three years.
4. $800 if the child dies after attaining the age of three years but before attaining the age of four years.
5. $1,000 if the child dies after attaining the age of four years but before attaining the age of five years.

(2) Where the amount payable under a contract on the death of the child, either alone or together with an amount payable under any other contract previously made, is in excess of the maximum amount that may be paid under subsection 1, and the child dies before attaining the age of five years, the amount payable on death in excess of the amount specified in subsection 1 is limited to,

(a) the amount of any excess premiums paid under the contract; and
(b) if the insurer has knowingly or without sufficient inquiry entered into the contract, interest at 6 per cent per annum on the excess premiums.

(3) Every insurer that undertakes insurance on the lives of children who have not attained the age of five years shall print the scale of benefits set out in subsection 1 in conspicuous type upon every circular or advertisement soliciting the insurance, and upon every policy evidencing the insurance.

(4) This section does not,

(a) apply to a contract under which the insured has a pecuniary interest in the life insured, or that limits the payment on the death of a child who has not attained the age of five years to the premiums that have been paid, with interest at the rate provided in the contract; or
(b) preclude the payment of dividends or the repayment of premiums in addition to the amounts specified in subsection 1. R.S.O. 1950, c. 183, s. 156.

THIRD PARTY POLICIES ON LIVES OF MINORS

163.—(1) Where a contract effected on the life of a minor by someone other than the minor, or an agreement in writing between the insurer and the insured respecting such a contract, provides that a person named in the contract or the agreement upon the death of the insured has all the rights and interests of the insured in the contract,

(a) the contract does not, upon the death of the insured, form part of his estate; and
(b) the person named pursuant to this section, upon the death of the insured, has all the rights and interests of the insured in the contract and shall be deemed to be the insured.
(2) Notwithstanding a nomination made under this section, the insured may, before his death, deal with the contract as if the nomination had not been made, and may alter or revoke the nomination by agreement in writing with the insurer. R.S.O. 1950, c. 183, s. 157.

BENEFICIARIES

164.—(1) Beneficiaries for value are beneficiaries who have given valuable consideration, other than marriage, and who are expressly stated to be, or described as, beneficiaries for value in the policy or in an endorsement thereon or in a subsequent declaration signed by the insured.

(2) Subject to section 173, preferred beneficiaries are the husband, wife, children, adopted children, grandchildren, children of adopted children, father, mother and adopting parents of the person whose life is insured.

(3) Ordinary beneficiaries are beneficiaries who are not preferred beneficiaries, beneficiaries for value, or assignees for value. R.S.O. 1950, c. 183, s. 158.

165. A beneficiary for value and an assignee for value of a policy has a vested interest in the policy, but, except as regards beneficiaries for value who are expressly stated to be or described as beneficiaries for value in the policy, a beneficiary for value or assignee for value who gives notice in writing of his interest in the policy to the insurer at the head or principal office of the insurer in Canada before any other beneficiary for value or assignee for value has priority of interest as against such last-mentioned beneficiary or assignee. R.S.O. 1950, c. 183, s. 159.

166. Where a contract is assigned, otherwise than as security for a loan or debt, to the person whose life is insured, that person shall thereupon be deemed to be the insured. R.S.O. 1950, c. 183, s. 160.

167.—(1) Subject to the rights of beneficiaries for value and assignees for value and to the provisions of this Act relating to preferred beneficiaries, the insured may designate the beneficiary by the contract or by a declaration, and may from time to time by a declaration appoint, appropriate or apportion the insurance money, or alter or revoke a prior designation, appointment, appropriation or apportionment, or substitute new beneficiaries, or divert the insurance money wholly or in part to himself or his estate, and may surrender the contract to the insurer, borrow from the insurer upon the
security of the contract, receive the surplus or profits for his own benefit, and otherwise deal with the contract as is agreed upon between him and the insurer.

(2) Subject to subsection 1, a beneficiary or a trustee appointed under section 192 may, at the maturity of the contract, enforce for his own benefit or as such trustee the payment of insurance money appointed, appropriated or apportioned to him by the contract or a declaration and in accordance with the terms thereof, but the insurer is entitled to set up any defence that it could have set up against the insured or his personal representatives, and payment made to the beneficiary or trustee discharges the insurer.

(3) A person whose life is insured under a contract of group life insurance may in his own name enforce any right stated in the policy to be given to him, subject to any defence available to the insurer against him or the insured.

(4) Subject to subsection 1, a declaration, whether contained in a will or other instrument in writing, has effect from the time of its execution, but a declaration does not affect the interest or rights of a beneficiary for value or assignee for value unless the declaration has been filed with the insurer at its head or principal office in Canada before the time when the beneficiary for value or assignee for value acquired such interest or rights and, if not so filed, the interest or rights of the beneficiary for value or assignee for value are as if the declaration had not been made.

(5) In the case of a declaration contained in a will, it is sufficient for the purposes of subsection 4 to file a copy thereof or of the material part thereof verified by statutory declaration.

(6) A declaration contained in an instrument purporting to be a will that has not been revoked otherwise than by operation of law is effective as a declaration, notwithstanding that the instrument is invalid as a testamentary instrument. R.S.O. 1950, c. 183, s. 161.

168. Where two or more beneficiaries are designated otherwise than alternatively, but no apportionment is made, they share equally. R.S.O. 1950, c. 183, s. 162.

169. Where there are several beneficiaries of whom one or more are ordinary beneficiaries and one or more of the ordinary beneficiaries die before the maturity of the contract, and no apportionment or other disposition of his or their shares is provided for in the contract or by a declaration, the share of such a deceased ordinary beneficiary is payable to the surviv-
ing designated beneficiary or beneficiaries, whether preferred or ordinary, and, if more than one, in equal shares but, if there is no surviving beneficiary, is payable to the insured or his estate. R.S.O. 1950, c. 183, s. 163.

170.-(1) Where the insured, in pursuance of section 167, designates as beneficiary or beneficiaries a member or members of the class of preferred beneficiaries, a trust is created in favour of the designated beneficiary or beneficiaries, and the insurance money, or such part thereof as is or has been apportioned to a preferred beneficiary, is not, except as otherwise provided in this Act, subject to the control of the insured or of his creditors and does not form part of the estate of the insured.

(2) The contract may provide or the insured may at any time direct by declaration that a preferred beneficiary is entitled only to the income from insurance money for life or for a period of time or subject to any limitation or contingency stated in the instrument.

(3) This section is subject to any vested rights of beneficiaries for value and assignees for value to the provisions hereinafter contained relating to preferred beneficiaries, and to any contingency or limitation stated in the instrument by which the insured designates a preferred beneficiary, but no provision in an instrument reserving to the insured the right to revoke or abridge the interest of a preferred beneficiary is effective so as to enable the insured to revoke or abridge that interest in favour of a person not in the class of preferred beneficiaries. R.S.O. 1950, c. 183, s. 164.

171. Notwithstanding the designation of a preferred beneficiary or beneficiaries, the insured may subsequently exercise the powers conferred by section 167 so as to restrict, limit, extend or transfer the benefits of the contract to any one or more of the class of preferred beneficiaries to the exclusion of any or all others of the class, or wholly or partly to one or more for life or any other term or subject to any limitation or contingency, with remainder to any other or others of the class. R.S.O. 1950, c. 183, s. 165.

172.—(1) Subject to section 174, where by the policy or by a subsequent declaration the insurance money or a part of it is made payable to or for the benefit of the wife of the person whose life is insured, his future wife, his wife and children or his future wife and children generally, or his children generally, the word “wife” means the wife living at the maturity of the contract, and the word “children” includes all the children of the person whose life is insured living at the
maturity of the contract as well as the issue living at the maturity of the contract of any child of his who predeceases him, such issue taking by representation.

(2) Subsection 1 applies mutatis mutandis to insurance effected by a woman on her life where the insurance money or a part of it is made payable to or for the benefit of her husband or future husband, her husband and children or future husband and children generally, or her children generally.

(3) Subsections 1 and 2 do not apply where the beneficiary or beneficiaries is or are designated by name or otherwise definitely indicated. R.S.O. 1950, c. 183, s. 166.

173. For the purposes of this Part, an adopted child and its adopting parent shall, from the date of the adoption, be deemed to bear towards one another the relationship of preferred beneficiaries, and an adopted child and its natural parents shall, from the date of the adoption be deemed to bear towards one another the relationship of ordinary beneficiaries, and in either case this provision applies in respect of insurance effected both before and after the date of adoption. R.S.O. 1950, c. 183, s. 167.

174.—(1) Subject to subsection 2, a contract may provide or the insured may at any time direct by declaration that, if a preferred beneficiary dies before the maturity of the contract, the insurance money or a part thereof appointed to the preferred beneficiary is payable to the insured, to his estate, or to any other person, whether that person is within the class of preferred beneficiaries or not.

(2) Where the contract provides or the insured by a declaration directs that insurance money shall go to a preferred beneficiary and in the event of the death of the preferred beneficiary to some other person in the class of preferred beneficiaries, and the first named beneficiary dies, the insured may, before the maturity of the contract, exercise only the powers referred to in section 171.

(3) In case of the death of a preferred beneficiary before the maturity of the contract and in the absence of a provision in the contract or a declaration by which some other person in the class of preferred beneficiaries is to become entitled to the insurance money or a part thereof appointed to the deceased beneficiary in the event of his death or upon the happening of any other event, the insured may deal under section 167 with the insurance money or part thereof in the same manner and to the same extent as if the deceased beneficiary had not been a preferred beneficiary.
(4) Subject to this section, the share of a preferred beneficiary who dies before the maturity of the contract is payable as follows:

1. If the deceased beneficiary was a child of the person whose life is insured and has left issue surviving at the maturity of the contract, his share and any share to which he would have been entitled if he had survived is payable to such issue in equal shares, such issue taking by representation.

2. If there is no person entitled under paragraph 1, the share of the deceased beneficiary is payable to the surviving designated preferred beneficiary or beneficiaries in equal shares.

3. If there is no person entitled under paragraph 1 or 2, the share of the deceased beneficiary is payable in equal shares to the wife or husband and the child or children of the person whose life is insured living at the maturity of the contract, and the issue then living of any deceased child of the person whose life is insured, such issue taking in equal shares the share to which his or their parent would have been entitled if living.

4. If there is no person entitled under paragraph 1, 2 or 3, the share of the deceased beneficiary is payable to the insured or his estate. R.S.O. 1950, c. 183, s. 168.

175.—(1) Where the wife or husband of the person whose life is insured is designated as beneficiary and is subsequently divorced, all interest of the beneficiary under the policy passes to the insured or his estate, unless such beneficiary is a beneficiary for value or an assignee for value.

(2) Where a divorce has been granted on the application of the beneficiary, the beneficiary is stopped from denying the validity of the divorce for the purpose of this section.

(3) Until the insurer receives at its head or principal office in Canada notice in writing of the Act of Parliament, judgment, decree or order granting the divorce, it may deal with the insurance money in the same manner and with the same effect as if no divorce had been granted, and before paying the insurance money, the insurer is entitled to receive the original judgment, order or decree or a duly verified copy thereof, or a duly verified copy of the Act of Parliament, or a copy thereof printed by the Queen's printer, as the case may be.
(4) Nothing in subsection 3 affects the right of a person entitled to payment by virtue of such divorce to recover from a person to whom payment is made by the insurer. R.S.O. 1950, c. 183, s. 169.

176. Where the wife or husband of the person whose life is insured is designated as beneficiary and it appears in the case of the wife that she is living apart from her husband in circumstances disentitling her to alimony or, in the case of the husband, that he is living apart from his wife in circumstances that would disentitle him by the law of England on the 1st day of January, 1951, to an order for restitution of conjugal rights, and that there is no other member of the class of preferred beneficiaries whom the insured may designate as beneficiary in place of the designated beneficiary, the court may, on the application of the insured and on such terms as seem fit, declare the designated beneficiary disentitled to claim the benefit of the provisions of this Part relating to preferred beneficiaries, and the insured may then deal with the policy as provided by section 167. R.S.O. 1950, c. 183, s. 170; 1951, c. 39, s. 6.

177.—(1) Where a preferred beneficiary is designated, the insured may surrender the contract to the insurer and accept net policy in lieu thereof any paid up or extended insurance provided by the contract in favour of the preferred beneficiary.

(2) Where a preferred beneficiary is designated, the insured may, from time to time, borrow from the insurer on the security of the contract such sums as are necessary and are applied to keep it in force, and the sums so borrowed, with such interest as is agreed on, are a first charge on the contract and the insurance money. R.S.O. 1950, c. 183, s. 171.

178.—(1) Notwithstanding the designation of a preferred beneficiary, a person who effects a participating contract, other than a contract of group life insurance, may, during his lifetime, receive for his own benefit the surplus or profits declared on the contract or may direct the insurer to apply them in payment or reduction of premiums, or in the purchase of paid-up additions to the sum insured, or to hold them to his credit for accumulation, or to deal otherwise with the surplus or profits as the contract provides, and upon the maturity of the contract, all surplus or profits so held to the credit of the insured, or being due and unpaid, shall, subject to the contract and to any direction by the insured to the contrary, be added to the insurance money and the share of a beneficiary shall be increased accordingly.

(2) In the case of group life insurance, surplus, profits,
dividends or bonuses shall be applied in accordance with the terms of the contract.

(3) The insurer may apply, for the purpose of keeping the contract in force, any surplus or profits declared on the contract and held by the insurer to the credit of the contract or of the insured, or held for accumulation, and not otherwise applied or dealt with under subsection 1.

(4) The insurer is not obliged to pay or apply any surplus or profits in a manner contrary to the terms of the contract or of a subsequent agreement. R.S.O. 1950, c. 183, s. 172.

179.—(1) Where all the designated preferred beneficiaries are of full age, they and the insured may surrender the contract or may assign or dispose of it either absolutely or by way of security, to the insurer, the insured or any other person, but, notwithstanding anything herein contained, the insured may exercise the borrowing powers conferred by section 177 without the concurrence of any beneficiary.

(2) Where the beneficiaries, whether designated by name or not, include the wife or children or grandchildren, it is sufficient, so far as their interests are concerned, if all then living are of full age and join in the surrender, assignment or disposal.

(3) Where insurance money is made payable to a minor or other person under disability or to a trustee on behalf of a minor or person under disability and the insurance money or a part thereof is required for the maintenance or education of the minor or person under disability, the court may, upon the application of the insured, upon at least ten days notice to the insurer, make an order, on such terms as it deems just, permitting the insured to surrender the contract to the insurer, or to borrow from the insurer on the security thereof, and payment by the insurer in accordance with the order discharges it from liability in respect of the payment.

(4) Where a contract has been assigned as security for a loan or debt, the rights of a beneficiary, whether ordinary or preferred, under the contract are affected only to the extent necessary to give effect to the rights of the assignee, and, when the loan or debt is discharged, the assignee shall furnish a certificate in writing to that effect and that the assignee has no further right, title or interest in the contract. R.S.O. 1950, c. 183, s. 173.

180. Where by a contract or an instrument in writing a person is to become entitled to insurance money only in the event of the death of another person named as a beneficiary, it is not necessary for such first-mentioned person to join in a surrender, assignment or disposal of the contract. R.S.O. 1950, c. 183, s. 174.
181.—(1) Where the insurance money is payable in instalments and the contract, or an instrument in writing signed by the insured and delivered to the insurer, expressly provides that the beneficiary does not have the right to commute the instalments or to alienate or assign his interest therein, the insurer shall not commute the instalments or pay them to any person other than the beneficiary, and the instalments are not, in the hands of the insurer, subject to legal process except in an action to recover for necessaries supplied to the beneficiary or his or her infant children.

(2) Notwithstanding subsection 1,

(a) the insured may, by an instrument in writing signed by him and delivered to the insurer, declare that the beneficiary has the right to commute, or alienate or assign, as the case may be;

(b) the court may, upon the application of the insurer or the beneficiary, upon at least ten days notice, declare that in view of special circumstances the beneficiary has the right to commute, or alienate or assign, as the case may be;

(c) after the death of the beneficiary, his personal representatives may commute any instalments payable to them.

(3) In this section, “instalments” includes insurance money or a part thereof held by the insurer under section 182. R.S.O. 1950, c. 183, s. 175.

182. Subject to the provisions of this Part relating to preferred beneficiaries, where it is so expressly provided in the contract or by an agreement in writing with the insurer or by a declaration, the insurer may hold the insurance money or a part thereof after maturity of the contract subject to the order of the beneficiary, or upon such trusts or other agreements for the benefit of the beneficiary as are provided in the contract, agreement or declaration, allowing and paying for the term during which the insurer retains such insurance money or a part thereof, interest thereon at a rate not less than that specified in the contract, agreement or declaration, or, if no rate is agreed upon, at the rate declared from time to time by the insurer in respect of insurance money so held by it, but the insurer is not bound to carry out the terms of any declaration to which it has not agreed in writing. R.S.O. 1950, c. 183, s. 176.

183.—(1) Until the insurer receives at its head or principal office in Canada notice in writing of the making of an order declaring a beneficiary disentitled to insurance money or of an instrument in writing affecting the insurance money or a part thereof or of the appointment or the revocation of the
appointment of a trustee, it may make any payment that would have been lawful and valid except for the order, instrument in writing, appointment or revocation of appointment, and, before making any payment under the order, instrument in writing, appointment or revocation of appointment, it is entitled to receive the original or a true copy thereof.

(2) Nothing in this section affects the right of a person entitled to payment by virtue of such order, instrument in writing, appointment or revocation of appointment to recover from a person to whom payment has been made by the insurer. R.S.O. 1950, c. 183, s. 177.

184. The insurer does not incur any liability for a default, error or omission in giving or withholding information as to any notice or instrument in writing affecting the insurance money that the insurer has received. R.S.O. 1950, c. 183, s. 178.

PROOF OF CLAIM AND PAYMENT

185.—(1) The insurer is entitled to reasonably sufficient proof in writing verified by affidavit or statutory declaration of the maturity of the contract, of the age of the person whose life is insured and of the right of the claimant to receive payment of the insurance money.

(2) Where the insurance money or part thereof is payable to or for the benefit of a beneficiary, the insurer is entitled to reasonably sufficient proof of the name and age of the beneficiary. R.S.O. 1950, c. 183, s. 179.

186.—(1) Insurance money that is expressed to be payable at the maturity of the contract is payable thirty days after reasonably sufficient proof has been furnished to the insurer of the maturity of the contract, of the age of the person whose life is insured, and of the right of the claimant to receive payment.

(2) Except in the case of a contract of group life insurance, insurance money is payable in the province in which the insured is domiciled at the time of death, or in which he is domiciled when it becomes payable otherwise than by reason of death, or, if he was not or is not then domiciled in Canada and the contract does not otherwise provide, is payable at the head or principal office of the insurer in Canada.

(3) In the case of a contract of group life insurance, insurance money is payable in the province in which the person whose life is insured is domiciled at the time of death, or in which he is domiciled when it becomes payable otherwise
(4) Every amount to be paid to or by an insurer under a contract is payable in lawful money of Canada, unless the contract expressly provides for payment in another currency.

(5) In every contract, whether the contract by its terms provides for payment in Canada or elsewhere, amounts expressed in dollars mean lawful dollars of Canadian currency, unless some other currency is specifically provided for in the contract. R.S.O. 1950, c. 183, s. 180.

187. Where insurance money is payable in respect of a policy on the life of a person who is at the date of his death domiciled elsewhere than in Canada to another person domiciled elsewhere than in Canada, and there is no person in Canada entitled to receive it, the insurer may pay it to the person to whom it is so payable, or to any other person entitled to receive it on his behalf by the law of the domicile of the payee. R.S.O. 1950, c. 183, s. 181.

188.—(1) Where the insurer admits the validity of the contract but does not admit the sufficiency of the proof furnished by the claimant of the maturity of the contract, or of the age of the person whose life is insured, or of the right of the claimant to receive payment of the insurance money, and where there is no other question in issue, except a question under subsection 2, the insurer or the claimant may, before or after action brought, upon at least thirty days notice, apply to the court for a declaration as to the sufficiency of the proof furnished, and the court may direct what further proof shall be furnished, or in special circumstances, may dispense with further proof.

(2) Where the claimant alleges that the person whose life is insured is presumed to be dead by reason of his not having been heard of for seven years, and where there is no other question in issue except a question under subsection 1, the insurer or the claimant may, before or after action brought, upon at least thirty days notice, apply to the court for a declaration as to the presumption of death.

(3) If the court finds that the proof of the maturity of the contract or of the age of the person whose life is insured or of the right of the claimant to receive payment is sufficient, or that a presumption of death has been established, or makes an order directing what further proof shall be furnished or in special circumstances dispensing with further proof, the finding
or order of the court is, subject to appeal, conclusive and binding upon the applicant and all parties notified of the application and the court may make such order as to the payment of the insurance money and as to the costs as to it seems just.

(4) The payment by the insurer in accordance with the order discharges it from liability in respect of the payment.

(5) If the court does not find that the proof of the maturity of the contract, of the age of the person whose life is insured, or of the right of the claimant to receive payment is sufficient, or that the presumption of death is established, the court may order that the question or questions in issue be decided in an action brought or to be brought, or may make such other order as to it seems just as to further proof to be furnished by the claimant, as to publication of advertisements, as to further inquiry, and as to costs, or otherwise.

(6) Unless otherwise ordered by the court, the application operates as a stay of any pending action with respect to the insurance money. R.S.O. 1950, c. 183, s. 182.

189. Where the person whose life is insured and any one or more of the beneficiaries perish in the same disaster, it is prima facie presumed that the beneficiary or beneficiaries died first. R.S.O. 1950, c. 183, s. 183.

190. An agreement, express or implied, contained in a contract of life insurance for the payment of insurance money in the event that the person whose life is insured commits suicide is lawful and enforceable. R.S.O. 1950, c. 183, s. 184.

MISCELLANEOUS

191.—(1) Subject to subsections 2 to 4, an action or proceeding against the insurer for the recovery of insurance money may be commenced within one year next after the furnishing of reasonably sufficient proof of the maturity of the contract and of the right of the claimant to receive payment, or within six years next after the maturity of the contract, whichever period first expires, but not afterwards.

(2) Where an order has been made declaring that death is presumed from the fact that the person whose life is insured has not been heard of for seven years, an action or proceeding may be commenced within one year and six months from the date of the order, but not afterwards.

(3) Where the death of the person whose life is insured is unknown to the person entitled to claim under the contract, an action or proceeding may be commenced within the pre-
scribed period or within one year and six months after the death becomes known to him, whichever period first expires, but not afterwards.

(4) Where an action or proceeding is prematurely brought, the plaintiff may commence a new action or proceeding at any time within six months after the final determination of the first action or proceeding. R.S.O. 1950, c. 183, s. 185.

192.—(1) The powers conferred upon the insured by this Part with regard to the designation or appointment of a beneficiary or beneficiaries, and the alteration or revocation of such designation or appointment, and the apportionment or re-apportionment of insurance money between or among beneficiaries, include power from time to time to appoint a trustee or trustees for any beneficiary or beneficiaries, to revoke such appointment or alter its terms, to appoint a new trustee or trustees, or to make provision for the appointment of a new trustee or trustees.

(2) The appointment of a trustee or trustees for a beneficiary does not have the effect of taking away from the court or the insured any power of depriving the beneficiary of the benefit of the insurance money that the court or the insured would have under this Act if the beneficiary had been designated as beneficiary without the appointment of a trustee.

(3) Payment made to the trustee or trustees appointed as hereinbefore provided discharges the insurer. R.S.O. 1950, c. 183, s. 186.

193.—(1) Where no trustee is appointed to receive the share to which a minor or other person under disability is entitled, or where a trustee is named but refuses or neglects to act or dies or otherwise becomes incapable of acting, the share of the minor or other person under disability may be paid to a guardian or tutor or trustee of the minor or to a curator, committee or trustee of such other person under disability duly appointed under the law of Ontario.

(2) Where insurance money not exceeding $2,000 is payable to the husband and children or to the wife and children, or to the children of the person whose life is insured, and one or more of the children are minors, the court may, if the wife is the mother of such minors, appoint her their guardian or, if the husband is the father of such minors, appoint him their guardian, with or without security, and the insurance money may be paid to him or her as guardian.

(3) Where it appears that a guardian, tutor, curator, committee or trustee of minors or other beneficiaries under disability has been appointed in a foreign jurisdiction and that
the minors or other beneficiaries are resident in that juris-
diction, the court may authorize payment of the insurance
money to the guardian, tutor, curator, committee or trustee
with or without security in Ontario. R.S.O. 1950, c. 183,
s. 187.

194.—(1) Where the insurer admits liability for the in-
surance money or a part thereof, and it appears to the insurer
that,

(a) there are adverse claimants; or

(b) the place of residence of a person entitled is unknown;
or

(c) there is no person capable of giving or authorized to
give a valid discharge,

the insurer may, at any time after the expiration of one month
from the maturity of the contract, apply to the court for an
order for payment of the money into court, and the court
may, upon such notice, if any, as it thinks necessary, make
an order accordingly, and the application shall in the first
instance be made ex parte.

(2) Where the insurer admits liability for the insurance
money or a part thereof payable to a minor and there is no
person capable of giving a valid discharge therefor, the insurer
may, at any time after the expiration of one month from the
maturity of the contract, pay the money, less the costs men-
tioned in subsection 3, into court to the credit of the minor.

(3) The insurer may retain, out of the insurance money for
costs incurred upon payment into court in accordance with
subsection 2, $10 if the amount does not exceed $1,000, and
$15 in other cases, and payment of the remainder into court
discharges the insurer.

(4) No order is necessary for payment into court under
subsection 2, but the accountant or other proper officer shall
receive the money upon the insurer filing with him an affidavit
showing the amount payable and the name, date of birth and
residence of the minor, and upon the payment being made, the
insurer shall forthwith notify the Official Guardian and deliver
to him a copy of the affidavit. R.S.O. 1950, c. 183, s. 188.

195. Where the insurer does not, within two months after
due proof of the claim, pay the insurance money to some
person competent to receive it under this Part or into court,
the court may, upon application of any person, order that the
insurance money or a part thereof be paid into court or may
make such other order as to the distribution of the money as
to the court seems just, and payment made in accordance with the order is a sufficient discharge to the insurer. R.S.O. 1950, c. 183, s. 189.

196. The court may fix and ascertain without taxation the costs incurred upon or in connection with an application or order made under subsection 1 of section 194 or under section 195 and may order such costs to be paid out of the insurance money or by the insurer or the applicant or otherwise as seems just. R.S.O. 1950, c. 183, s. 190.

197. This Part shall be so interpreted and construed as to effect its general purpose of making uniform the law of those provinces that enact it. R.S.O. 1950, c. 183, s. 191.

PART VI

AUTOMOBILE INSURANCE

198. In this Part, unless the context otherwise requires,

(a) “automobile” includes all self-propelled vehicles, their trailers, accessories and equipment, but does not include railway rolling stock, watercraft or aircraft of any kind;

(b) “automobile insurance” means insurance against liability for loss or damage to persons or property caused by an automobile or the use or operation thereof, or against loss of or damage to an automobile;

(c) “contract” includes any writing evidencing a contract, and an oral agreement;

(d) “driver’s policy” means a motor vehicle liability policy insuring a person named therein in respect of the operation or use by him of any automobile other than an automobile owned by him or registered in his name;

(e) “insured” means a person insured by a contract, whether named or not;

(f) “motor vehicle liability policy” means a policy or that part of a policy insuring the owner or driver of an automobile against liability for loss or damage to persons or property; R.S.O. 1950, c. 183, s. 192, cls. (a-f).
"owner's policy" means a motor vehicle liability policy insuring a person named therein in respect of the ownership, operation or use of an automobile owned by him and specifically described in the policy and in respect of the ownership, operation or use of any other automobile that may be within the definition thereof appearing in the policy; 1951, c. 39, s. 7.

"policy" means the instrument evidencing a contract. R.S.O. 1950, c. 183, s. 192, cl. (h).

199.—(1) This Part applies to automobile insurance and to any insurer carrying on the business of automobile insurance in Ontario and to all contracts made in Ontario on or after the 1st day of September, 1932.

(2) Nothing in this Part prevents the insurance of an automobile against loss or damage by fire under a policy of fire insurance, and in that event this Part does not apply.

(3) This Part, other than section 223, does not apply to insurance of an automobile chiefly used or operated off highways unless insured under a form of policy approved under this Part. R.S.O. 1950, c. 183, s. 193.

THE APPLICATION

200.—(1) No insurer shall make any contract for a period exceeding fourteen days without a written application therefor, signed by the applicant or his agent, duly authorized in writing.

(2) No person carrying on the business of financing the sale or purchase of automobiles, and no automobile dealer, insurance agent or broker, and no officer or employee of any such person, dealer, agent or broker, shall act as agent of an applicant under this section. R.S.O. 1950, c. 183, s. 194 (1, 2).

(3) Every written application for a driver's policy shall set forth,

(a) the name, address and occupation or business of the applicant; R.S.O. 1950, c. 183, s. 194 (3), cl. (a).

(b) particulars of all accidents, losses or claims arising out of the ownership, use or operation of an automobile by the applicant within the three years preceding the application;

(c) whether any insurer has cancelled any policy of automobile insurance of the applicant or refused automobile insurance to him;
(d) whether any licence, permit, registration certificate or other like authority issued to the applicant under a law or statute of any province, state or country relating to automobiles has, to the knowledge of the applicant, been, or continued to be, suspended or cancelled within the three years preceding the application; and

(e) such further information as the insurer requires or the Superintendent prescribes. 1951, c. 39, s. 8 (1).

(4) Every other written application shall set forth,

(a) the name, address and occupation or business of the applicant;

(b) the description of the automobile to be insured as the described automobile;

(c) the purchase price to the applicant of the automobile so described;

(d) whether purchased new or otherwise;

(e) particulars of any mortgage, lien or encumbrance thereon;

(f) the place where it is and will usually be kept;

(g) the locality in which and the purpose for which it is and will be chiefly used;

(h) particulars of all accidents, losses or claims arising out of the ownership, use or operation of an automobile by the applicant within the three years preceding the application;

(i) whether any insurer has cancelled any policy of automobile insurance of the applicant or refused automobile insurance to him;

(j) whether any licence, permit, registration certificate or other like authority issued to the applicant or member of his family and household under any law or statute of any province, state or country relating to automobiles has, to the knowledge of the applicant, been, or continued to be, suspended or cancelled within the three years preceding the application; and

(k) such further information as the insurer requires or the Superintendent prescribes. 1951, c. 39, s. 8 (2).

(5) Where the requirements of subsection 3 or 4 are, in the opinion of the Superintendent, inapplicable to any special form of contract, the Superintendent may prescribe the form of application or vary, omit or add to those requirements.
(6) Upon every written application and policy there shall be printed or stamped in conspicuous type, not less in size than 10-point and in red ink, a copy of subsection 1 of section 206.

(7) Where a contract is renewed without change or only the amount of the insurance, the rate of premium or the method of rating is changed, the renewal may be effected without a written application.

(8) A copy of the application, or such part thereof as is material to the contract, shall be embodied in, endorsed upon or attached to the policy when issued by the insurer. R.S.O. 1950, c. 183, s. 194 (5-8).

201. Where it is proposed to change the subject-matter of a contract by substitution or addition of one or more automobiles, the insurer may so amend the contract by an endorsement of the policy, but in that case it shall obtain a written application signed in accordance with section 200 and containing such particulars required by that section as relate to the new subject-matter. R.S.O. 1950, c. 183, s. 195.

THE POLICY

202.—(1) Every policy shall set forth,

(a) the name and address of the insurer;

(b) the name, address, occupation or business of the insured named therein;

(c) the premium for the insurance;

(d) the subject-matter of the insurance;

(e) the indemnity for which the insurer may become liable;

(f) the event on the happening of which liability is to accrue;

(g) the term of the insurance; and

(h) except in case of motor vehicle liability policies, the name of the person to whom the insurance money is payable.

(2) Unless otherwise expressly stated therein, a written application shall be deemed to be one for a policy embodying the terms and conditions of the insurer's corresponding standard policy form approved under this Part, and the policy shall be deemed to be in accordance with the application unless the insurer points out in writing to the insured named in the policy in what respect the policy differs from the application,
and, in that event, the insured shall be deemed to have accepted the policy unless within one week from the receipt of the notification he informs the insurer in writing that he rejects the policy.

(3) Notwithstanding any agreement, the insurer shall deliver or mail to the insured named therein the policy or a true copy thereof and every endorsement or amendment of the policy or a true copy thereof. R.S.O. 1950, c. 183, s. 196.

203.—(1) Subject to sections 204, 222 and 225,

(a) the conditions set forth in this section are statutory conditions and shall be deemed to be part of every contract of automobile insurance and shall be printed on every policy with the heading “Statutory Conditions”; 

(b) no variation or omission of a statutory condition is valid nor is anything contained in any addition to a statutory condition or in the description of the subject-matter of the insurance effective in so far as it is inconsistent with, varies or avoids any such condition. R.S.O. 1950, c. 183, s. 197 (1); 1957, c. 51, s. 6 (1).

(2) In clause a of statutory condition 3, “radioactive material” means,

(a) spent nuclear fuel rods that have been exposed to radiation in a nuclear reactor;

(b) radioactive waste material;

(c) unused nuclear fuel rods;

(d) any other radioactive material of such a quality as to be harmful to person or property if its container were destroyed or damaged. 1960, c. 50, s. 1 (1).

STATUTORY CONDITIONS

In these statutory conditions, unless the context otherwise requires, the word "insured" means a person insured by the policy whether named or not.

Material Change in Risk

1. (a) The insured named in the policy shall promptly notify the insurer, or its local agent, in writing, of any change in the risk material to the contract and within his knowledge.

(b) Without restricting the generality of the foregoing, the words "change in the risk material to the contract" shall include:

(i) any change in the insurable interest of the insured named in the policy in the automobile by sale, assignment or otherwise, except through change of title by succession, death or proceedings under the Bankruptcy Act;
and in cases other than motor vehicle liability policies;

(ii) any mortgage, lien or encumbrance affecting the automobile after the application for the policy;

(iii) any other insurance of the same interest, whether valid or not, covering loss or damage insured by the policy or any portion thereof.

Prohibited Use by Insured

2.—(1) The insured shall not drive or operate the automobile:

(a) while under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile; or

(b) unless he is for the time being either authorized by law or qualified to drive or operate the automobile, or while he is under the age of sixteen years or under such other age as is prescribed by the law of the province where he resides at the time the policy is issued; or

(c) for any illicit or prohibited trade or transportation; or

(d) in any race or speed test.

Prohibited Use by Others

(2) The insured shall not permit, suffer, allow or connive at the use of the automobile:

(a) by any person under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile; or

(b) by any person, unless such person is for the time being either authorized by law or qualified to drive or operate the automobile, or while such person is under the age of sixteen years or under such other age as is prescribed by law; or

(c) for any illicit or prohibited trade or transportation; or

(d) in any race or speed test.

Prohibitions Without Permission

3. Unless permission is expressly given by an endorsement of the policy and in consideration of an additional stated premium, the automobile shall not be rented or leased nor shall it be used:

(a) to carry explosives or to carry radioactive material for research, education, development or industrial purposes or for purposes incidental thereto;

(b) as a taxicab, public omnibus, livery, jitney, or sight-seeing conveyance or for carrying passengers for compensation or hire.

Trailers

4. Unless otherwise provided in this policy, in respect of the indemnity provided therein against liability for loss or damage to persons or property,

(a) an automobile covered by the policy shall not be used for towing a trailer owned by the insured unless like indemnity is also provided by the insurer in respect of the trailer; and

(b) a trailer covered by the policy shall not be towed by an automobile owned by the insured unless like indemnity is also provided by the insurer in respect of the automobile.

Liability in War

5. In cases other than motor vehicle liability policies, the insurer shall not be liable for loss or damage that is caused directly or indirectly by bombardment, invasion, civil war, insurrection, rebellion, revolution, military or usurped power, or by operations of armed forces while engaged in hostilities, whether war be declared or not, or by civil commotion arising from any of the foregoing, unless the policy or an endorsement thereon expressly provides otherwise.
6. (1) The insured shall promptly give to the insurer written notice, with all available particulars, of any accident involving loss or damage to persons or property, and of any claim made on account of accident; shall verify by affidavit or statutory declaration, if required by the insurer, that the claim arises out of the operation or use of the automobile and that the person operating or responsible for the operation of the automobile at the time of the accident is a person insured by the policy; and shall forward immediately to the insurer every writing, letter, document or advice received by him from or on behalf of the claimant.

Co-operation of Insured and Insurer in Claim Settlement

(2) The insured shall not voluntarily assume any liability or settle any claim except at his own cost. The insured shall not interfere in any negotiations for settlement or in any legal proceeding but, whenever requested by the insurer, shall aid in securing information and evidence and the attendancy of any witness, and shall co-operate with the insurer, except in a pecuniary way, in the defence of any action or proceeding or in the prosecution of any appeal.

7. (1) Upon the occurrence of loss of or damage to the automobile, the insured shall, if the loss or damage is covered by this policy:

(a) forthwith give notice thereof, in writing, to the insurer, with fullest information obtainable at the time, and shall, at the expense of the insurer, and as far as reasonably possible, protect the automobile from further loss or damage, and any such further loss or damage accruing directly or indirectly from a failure to protect shall not be recoverable hereunder. No repairs shall be undertaken or any physical evidence of the loss or damage removed without the written consent of the insurer, except such repairs as are immediately necessary for the protection of the automobile from further loss or damage; or until the insurer has had a reasonable time to make the examination provided for in statutory condition 9;

(b) deliver to the insurer within ninety days of the date of the loss or damage a statutory declaration stating, so far as the insured knows or believes, the place, time, cause and amount of the loss or damage, the interest of the insured and of all others therein, the encumbrances thereon, all other insurance, whether valid or not, covering the automobile, and that the loss or damage did not occur through any wilful act or neglect, procurement, means or connivance of the insured.

Examination of Insured

(2) The insured shall submit to examination under oath, and shall produce for examination, at such reasonable place as is designated by the insurer or its representative, all documents in his possession or control which relate to the matters in question, and shall permit extracts and copies thereof to be made.

Insurer Liable For Cash Value of Automobile

(3) The insurer shall not be liable beyond the actual cash value of the automobile at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated according to such actual cash value with proper deduction for depreciation, however caused, and shall in no event exceed what it would cost to repair or replace the automobile or any part thereof with material of like kind and quality; provided that in the event of any part of the automobile being obsolete and out of stock, the liability of the insurer in respect thereof shall be limited to the value of such part at the time of loss or damage not exceeding the maker's last list price.

Repairs

(4) Except where an appraisal has been had, the insurer, instead of making payment, may, within a reasonable time, repair, rebuild or replace the property damaged or lost.
with other of like kind and quality, giving written notice of its intention so to do within seven days after the receipt of the proofs of loss; but there can be no abandonment of the automobile to the insurer without its consent. In the event of the insurer exercising such option, the salvage, if any, shall revert to it.

In Case of Disagreement

(5) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount payable in respect of any loss or damage, such questions shall be determined by appraisers before recovery can be had hereunder, whether the right to recover on the policy is disputed or not, and independently of all other questions.

Appraisal

(6) The insured and the insurer shall each select one appraiser, and the two so chosen shall then select a disinterested umpire. Thereafter the two appraisers together shall estimate or appraise the loss or damage, stating separately sound value and damage, or determine the adequacy of such repairs or replacements, and, failing to agree, shall submit their differences to the umpire.

Appointment of Appraisers

(7) In case either party fails to name an appraiser within seven clear days after being served with written notice so to do, or in case the appraisers fail to agree upon an umpire within fifteen days after their appointment, or in case an appraiser or umpire refuses to act or is incapable of acting, or dies, a judge of a superior, county or district court having jurisdiction in the county or district in which the appraisal is to be made may appoint such appraiser or umpire on the application of the insured or of the insurer.

Award

(8) An award in writing of the two appraisers, or of one appraiser and the umpire, shall determine the nature and extent or adequacy of the repairs and replacements made or required, or the amount of such loss or damage.

Costs of Appraisal

(9) Each party shall pay the appraiser selected by him and shall bear equally the other expenses of the appraisal and of the umpire.

Waiver

8. Neither the insurer nor the insured shall be deemed to have waived any term or condition of this policy by any act relating to the appraisal or to the delivery and completion of proofs of loss, or to the investigation or adjustment of the claim.

Inspection of Automobile

9. The insurer shall be permitted at all reasonable times to inspect the automobile and its equipment.

Time and Manner of Payment of Insurance Money

10.—(1) An insurer shall pay the insurance money for which it is liable under a contract within sixty days after the proof of loss has been received by it, or, where an appraisal is had under statutory condition 7, within fifteen days after the award is rendered by the appraisers.

When Action May be brought

(2) The insured may not bring an action to recover the amount of a claim under the policy unless the requirements of statutory conditions 6 and 7 are complied with nor until the amount of the loss has been ascertained as therein provided, or by a judgment against the insured after trial of the issue, or by agreement between the parties with the written consent of the insurer.

Limitation of Actions

(3) Every action or proceeding against an insurer under a contract in respect of loss or damage to the automobile shall be commenced within one year next after the happening of the loss and not afterwards, and in respect of loss or damage to persons or property shall be commenced within one year next after the cause of action arose, and not afterwards.
11. Notice of claim may be given and proofs of claim may be made by the agent of the insured named in the policy in case of absence or inability of such insured to give the notice or make the proof, such absence or inability being satisfactorily accounted for, or in the like case, or if such insured refuses to do so, by a person to whom any part of the insurance money is payable.

Cancellation

12. (1) The policy may be cancelled at any time at the request of the insured named therein, and the insurer shall, upon surrender of the policy, refund the excess of paid premium above the customary short rate premium for the time the policy has been in force.

(2) The policy may be cancelled at any time by the insurer giving to the insured named in the policy fifteen days notice in writing of cancellation by registered post, whether registered within or without Canada, or five days notice of cancellation personally delivered, and refunding the excess of paid premium beyond the pro rata premium for the expired time. Repayment of excess premiums may be made by money, money order or cheque. Such repayment shall accompany the notice, and in such case the fifteen days above mentioned shall commence to run from the day following the receipt of the registered letter at the post office to which it is addressed.

(3) In this condition, the expression "paid premium" means premium actually paid by the insured to the insurer or its agent, and does not include any premium or part thereof paid to the insurer by an agent unless actually paid to the agent by the insured.

Notice

13. Any written notice to the insurer may be delivered at or sent by registered post to the chief agency or head office of the insurer in this Province. Written notice may be given to the insured named in the policy by letter personally delivered to him or by registered letter addressed to him at his last post office address notified to the insurer, or, where no address is notified and the address is not known, addressed to him at the post office of the agency, if any, from which the application was received. In this condition the expression "registered" shall mean registered within or without Canada.

R.S.O. 1950, c. 183, s. 197, stat. cdns.; 1951, c. 39, s. 9; 1957, c. 51, s. 6 (3); 1960, c. 50, s. 1 (2).

204. (1) If the policy does not insure against liability for loss or damage to persons or property, statutory condition 6 shall be deemed not to be part of the policy.

(2) If the policy does not insure against loss of or damage to an automobile, statutory condition 7 shall be deemed not to be part of the policy. R.S.O. 1950, c. 183, s. 198.

205. (1) No insurer shall issue or deliver a policy in Ontario until a copy of the form of policy has been on file with the Superintendent for at least thirty days, unless sooner approved in writing by him, nor if within that period the Superintendent notifies the insurer in writing that such form of policy is not approved.

(2) The Superintendent shall, on being so required, specify the reasons for not approving or for disapproving thereof. R.S.O. 1950, c. 183, s. 199.
206. (1) Where an applicant for a contract gives false particulars of the described automobile to be insured, to the prejudice of the insurer, or knowingly misrepresents or fails to disclose in the application any fact required to be stated therein or where the insured contravenes a term or condition of the policy or commits a fraud, or makes a wilfully false statement with respect to a claim under the policy, a claim by the insured is invalid and the right of the insured to recover indemnity is forfeited. 1951, c. 39, s. 10.

(2) Where a written application for a contract is made, no statement of the applicant shall be used in defence of a claim under the policy, unless it is contained in the written application. R.S.O. 1950, c. 183, s. 200 (2).

207. Where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured or other matter or thing required to be done or omitted by the insured with respect to the loss, and a consequent forfeiture or avoidance of the insurance in whole or in part, and the court deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as it deems just. R.S.O. 1950, c. 183, s. 201.


209. No term or condition of a contract shall be deemed to be waived by the insurer in whole or in part, unless the waiver is stated in writing and signed by an agent of the insurer. R.S.O. 1950, c. 183, s. 203.

210. (1) The insurer, upon making a payment or assuming liability therefor under a contract of automobile insurance, is subrogated to all rights of recovery of the insured against any person and may bring action in the name of the insured to enforce such rights.

(2) If the net amount recovered, after deducting the costs of such recovery, is not sufficient to provide a complete indemnity for the loss or damage suffered, such amount shall be divided between the insurer and the insured in the proportions in which the loss or damage has been borne by them respectively. R.S.O. 1950, c. 183, s. 204.

211. No red ink shall be used in printing a policy, except for the name, address and emblem of the insurer, the policy number and for the purposes mentioned in this Part. R.S.O. 1950, c. 183, s. 205.
212. Any act or omission of the insurer resulting in non-compliance or imperfect compliance with any of the provisions of this Part does not render a contract invalid as against the insured. R.S.O. 1950, c. 183, s. 206.

MOTOR VEHICLE LIABILITY POLICIES

213.—(1) Every owner's policy insures the person named therein and every other person who with his consent personally drives an automobile specifically described in the policy against the liability imposed by law upon the insured named therein or upon any such other person for loss or damage,

(a) arising from the ownership, use or operation of any such automobile in Canada, the continental United States of America, or upon a vessel plying between ports within those countries; and

(b) resulting from,

(i) bodily injury to or death of any person, or

(ii) damage to property, or

(iii) both.

(2) Nothing in subsection 1 precludes coverage being provided in an owner's policy to the person named therein and such other persons as are specified therein who with his consent personally drive any other automobile within the definition thereof appearing in the policy against the liability imposed by law upon the insured named therein or upon any such other person for loss or damage,

(a) arising from the ownership, use or operation of any such automobile in Canada, the continental United States of America, or upon a vessel plying between ports thereof; and

(b) resulting from,

(i) bodily injury to or death of any person, or

(ii) damage to property, or

(iii) both. 1951, c. 39, s. 11, part.

(3) In the event of the death of the person named in an owner's policy, the following persons shall be deemed to be the insured under the policy:

1. The spouse of the deceased insured if residing in the same dwelling premises at the time of his death.

2. As respects the specifically described automobile and a newly acquired automobile where the automobile
was acquired by the deceased insured prior to his death, and a temporary substitute automobile, all as defined by the policy,

i. any person having proper temporary custody thereof until grant of probate or administration to the personal representative of the deceased insured,

ii. the personal representative of the deceased insured. 1960, c. 50, s. 2.

(4) Any person insured by but not named in a policy may recover indemnity in the same manner and to the same extent as if named therein as the insured, and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor. 1951, c. 39, s. 11, part.

214. Every driver's policy insures the person named therein against the liability imposed by law upon such insured for loss or damage,

(a) arising from the operation or use by him of any automobile, other than an automobile owned by or registered in the name of such insured, while he is personally in control as driver or occupant of such automobile in Canada, the continental United States of America, or upon a vessel plying between ports within those countries; and

(b) resulting from,

(i) bodily injury to or death of any person, or

(ii) damage to property, or

(iii) both. R.S.O. 1950, c. 183, s. 208; 1951, c. 39, s. 12.

215.—(1) Under an owner's policy or a driver's policy, the insurer shall,

(a) upon receipt of notice of loss or damage caused to persons or property, serve the insured by such investigation thereof, or by such negotiations with the claimant, or by such settlement of any resulting claims, as are deemed expedient by the insurer; and

(b) defend in the name and on behalf of the insured and at the cost of the insurer any civil action that is at any time brought against the insured on account of loss or damage to persons or property; and
(c) pay all costs taxed against the insured in any civil action defended by the insurer and any interest accruing after entry of judgment upon that part of the judgment that is within the limits of the insurer’s liability; and

(d) in case the injury be to a person, reimburse the insured for outlay for such medical aid as is immediately necessary at the time. R.S.O. 1950, c. 183, s. 209.

(2) Where a person is insured under more than one motor vehicle liability policy, whether the insurance is first loss insurance or excess, and a question arises under clause (b) of subsection 1 between an insurer and the insured or between the insurers as to which insurer shall undertake the obligation to defend in the name and on behalf of the insured, whether or not any insurer denies liability under its policy, the insured or any insurer may apply to the Supreme Court and the court shall give such directions as appear proper with respect to the performance of the obligation.

(3) On an application under subsection 2, the only parties entitled to notice thereof and to be heard thereon are the insured and his insurers and no material or evidence used or taken upon such an application is admissible upon the trial of an action brought against the insured for loss or damage to persons or property arising out of the use of the automobile in respect of which the insurance is provided.

(4) An order under subsection 2 does not affect the rights and obligations of the insurers with respect to payment of any indemnity under their respective policies.

(5) Where the insured has indemnity under two or more policies and one or more is or are excess insurance by virtue of section 221, the insurers shall, as between themselves, contribute to the payment of expenses, costs and reimbursement provided for in subsection 1 in accordance with their respective liabilities for damages against the insured. 1951, c. 39, s. 13.

216. Subject to section 220, the insurer is not liable under an owner’s policy or a driver’s policy,

(a) for any liability imposed by any workmen’s compensation law upon the insured; or

(b) for loss or damage resulting from bodily injury to or the death of,

(i) the son, daughter, wife, husband, mother, father, brother or sister of the insured while
being carried in or upon or entering or getting on to or alighting from the automobile, or

(ii) the insured,

or, unless the coverage is expressly extended under section 219,

(c) to any person, not the owner of the automobile, engaged in the business of an automobile garage, repair shop or service station or as an automobile dealer, for loss or damage sustained while engaged in the operation or repair of the automobile; or

(d) for any loss or damage resulting from bodily injury to or the death of any person being carried in or upon or entering or getting on to or alighting from the automobile; or

(e) for loss of or damage to property carried in or upon the automobile or to any property owned or rented by, or in the care, custody or control of, the insured; or

(f) for loss or damage resulting from bodily injury to or the death of any employee of the insured while engaged in the operation or repair of the automobile,

or, where the coverage is expressly excluded by an endorsement approved by the Superintendent,

(g) for loss or damage arising from the ownership, use or operation of any machinery or apparatus, including its equipment, mounted on or attached to the automobile with a separate power or heating unit, while at the site of the use or operation of such machinery or apparatus. 1951, c. 39, s. 14; 1954, c. 38, s. 1.

217.—(1) In this section, the expression “nuclear energy hazard” means the radioactive, toxic, explosive or other hazardous properties of prescribed substances under the Atomic Energy Control Act (Canada).

(2) Where an insured is covered, whether named therein or not, under a policy of automobile liability insurance for loss or damage resulting from bodily injury to or the death of any person or damage to property arising directly or indirectly out of a nuclear energy hazard and is also covered, whether named therein or not, against such loss or damage under a policy of nuclear energy hazard liability insurance issued by a group of insurers and in force at the time of the event giving rise to such loss or damage,

(a) the automobile liability insurance is excess to the nuclear energy hazard liability insurance and the
insurer under the policy of automobile liability insurance is not liable to pay beyond the minimum limits prescribed by section 218; and

(b) the unnamed insured under the policy of nuclear energy hazard liability insurance may, with respect to such loss or damage, recover indemnity under that insurance in the same manner and to the same extent as if named therein as the insured and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor.

(3) For the purpose of this section, a policy of nuclear energy hazard liability insurance shall be deemed to be in force at the time of the event giving rise to the loss or damage, notwithstanding that the limits of liability thereunder have been exhausted. 1960, c. 50, s. 3.

218. Every owner’s policy and driver’s policy shall insure, in case of bodily injury or death, to the limit of at least $10,000 (exclusive of interest and costs) against loss or damage resulting from bodily injury to or the death of any one person, and, subject to such limit, for any one person so injured or killed, of at least $20,000 (exclusive of interest and costs) against loss or damage resulting from bodily injury to or death of two or more persons in any one accident, or, in case of property damage, to the limit of at least $5,000 (exclusive of interest and costs) for damage to property resulting from any one accident. R.S.O. 1950, c. 183, s. 211; 1957, c. 51, s. 7 (1).

219.—(1) The insurer may, by an endorsement on the policy and in consideration of an additional stated premium, and not otherwise, extend the coverage in the case of an owner’s policy or driver’s policy in whole or in part in any or all of the following respects, namely, the matters mentioned in clauses e, e and f of section 216.

(2) The insurer may, by an endorsement on the policy or by provision in the policy and in consideration of an additional stated premium, and not otherwise, extend the coverage in whole or in part in the case of an owner’s policy or driver’s policy in respect of the matter mentioned in clause d of section 216.

(3) The insurer may, in the case of an owner’s policy, extend the coverage in whole or in part in respect of the operation or use of automobiles not owned by or registered in the name of the insured.

(4) The insurer may, in the case of an owner’s policy or a driver’s policy, extend the coverage to such other matters as the Superintendent approves.
(5) No insurer shall extend the coverage under subsection 3 or 4 without the approval of the Superintendent as to the form of the extended coverage, the method of providing therefor and as to the necessity or otherwise of an additional stated premium for the coverage. 1951, c. 39, s. 15, part.

220.—(1) An insurer issuing an owner’s policy or a driver’s policy may, in consideration of an additional stated premium, in addition to the other insuring agreements therein, agree to pay for each person who sustains bodily injury caused by an accident while driving, being carried in or upon, or entering or getting on to, or alighting from, the automobile specifically described in the policy or within the definition thereof appearing in the policy, in Canada, the continental United States of America, or upon a vessel plying between ports within those countries, if the automobile is being used by the insured named in the policy or with his consent, all reasonable expenses incurred, within one year from the date of the accident, as a result of the injury, for necessary medical, surgical, dental, ambulance, hospital, professional nursing and funeral services.

(2) No insurer shall give the insurance under subsection 1 without the approval of the Superintendent as to the terms and conditions thereof. 1951, c. 39, s. 15, part.

221.—(1) Subject to subsection 2, if the insured named in a policy has or places any additional or other valid insurance of his interest in the subject-matter of the contract, or any part thereof, the insurer is liable only for its rateable proportion of any loss or damage. 1951, c. 39, s. 15, part.

(2) Insurance under a valid owner’s policy, as respects the liability arising from the ownership, use or operation of the automobile specifically described in the policy, is a first loss insurance and insurance attaching under any other valid motor vehicle policy is excess insurance only. 1954, c. 38, s. 2.

(3) A copy of subsections 1 and 2 shall be printed or stamped in conspicuous type not less in size than 10-point upon every automobile insurance policy and those subsections constitute terms of the contract between the insurer and the insured and subsection 2 operates as between insurers. 1951, c. 39, s. 15, part.

222.—(1) Where any provision of this Part, including any statutory condition, is wholly or partly inapplicable by reason of the requirements of any Act or, in the opinion of the Superintendent, is unsuitable to any special form of contract, he may approve a form of policy sufficient or appropriate to insure the risks required or proposed to be insured.
(2) Where a form of policy is so approved, the Superintendent shall specify in writing the statutory condition or other provision to which subsection 1 refers and send a copy of the writing to the insurer, and thereafter the contract in the form so approved has effect according to its terms notwithstanding that those terms conflict with or omit the condition or other provision so specified. 1957, c. 51, s. 8.

223.—(1) Any person having a claim against an insured, for which indemnity is provided by a motor vehicle liability policy, is, notwithstanding that such person is not a party to the contract, entitled, upon recovering a judgment therefor against the insured, to have the insurance money payable under the policy applied in or towards satisfaction of his judgment and of any other judgments or claims against the insured covered by the indemnity and may, on behalf of himself and all persons having such judgments or claims, maintain an action against the insurer to have the insurance money so applied.

(2) No creditor of the insured is entitled to share in the insurance money payable under any such policy in respect of any claim for which indemnity is not provided by the policy.

(3) (i) No assignment, waiver, surrender, cancellation or discharge of the policy, or of any interest therein or of the proceeds thereof, made by the insured after the happening of the event giving rise to a claim under the policy, and

(ii) no act or default of the insured before or after such event in contravention of this Part or of the terms of the contract, and

(iii) no contravention of the Criminal Code (Canada) or of any law or statute of any province, state or country, by the owner or driver of the automobile,

prejudices the right of any person who is entitled under subsection 1 to have the insurance money applied upon his judgment or claim, or be available to the insurer as a defence to such action.

(4) It is not a defence to an action under this section that an instrument issued as a motor vehicle liability policy by a person engaged in the business of an insurer, and alleged by a party to the action to be such a policy, is not a motor vehicle liability policy, and this section applies mutatis mutandis to the instrument. R.S.O. 1950, c. 183, s. 214 (1-4).
(5) The insurer may require any other insurers liable to indemnify the insured in whole or in part in respect of judgments or claims referred to in subsection 1 to be made parties to the action and to contribute according to their respective liabilities, whether this be rateably or by way of first loss or excess insurance, as the case may be, and the insured shall, on demand, furnish the insurer with particulars of all other insurance covering the subject-matter of the contract.

(6) Subject to subsection 7, where a policy provides or, if more than one policy, the policies provide for coverage in excess of the limits mentioned in section 218 or for extended coverage in pursuance of subsections 1, 2 and 4 of section 219, nothing in this section, with respect to such excess coverage or extended coverage, prevents any insurer from availing itself, as against a claimant, of any defence that the insurer is entitled to set up against the insured. 1951, c. 39, s. 17 (1).

(7) Where a policy provides for extended coverage in respect of loss or damage resulting from bodily injury to, or the death of, any person being carried in or upon, or entering, or getting on to, or alighting from, an automobile operated in the business of carrying passengers for compensation or hire, subsection 6 applies only to that part of the extended coverage,

(a) that exceeds any minimum coverage required by this Act; or

(b) where a greater minimum coverage is required by or under any other Act of, or in force in, Ontario, that exceeds such greater minimum coverage.

(8) The insured is liable to pay or reimburse the insurer, upon demand, any amount that the insurer has paid by reason of this section that it would not otherwise be liable to pay.

(9) Where an insurer denies liability under a motor vehicle liability policy, it has the right upon application to the court to be made a third party in any action to which the insured is a party and in which a claim is made against the insured by any party to the action for which it is or might be asserted that indemnity is provided by the policy, whether or not the insured enters an appearance or defence in such action, and, upon being made a third party, the insurer has the right to contest the liability of the insured to any party claiming against the insured, and to contest the amount of any claim made against the insured to the same extent as if a defendant in the action, including for such purpose the right to deliver a statement of defence to the claim of any party claiming against the insured and to deliver other pleadings and to have production and discovery from any party adverse in interest.
and the right to examine and cross-examine witnesses at the trial. R.S.O. 1950, c. 183, s. 214 (7-9).

(10) An insurer is entitled to avail itself of subsection 9 notwithstanding that another insurer is defending in the name and on behalf of the insured an action to which its insured is a party. 1951, c. 39, s. 17 (2).

224. Every insured against whom an action is commenced for damages occasioned by an automobile shall,

(a) give notice thereof in writing to the insurer within five days after service of notice or process in the action; and

(b) disclose to a judgment creditor entitled to the benefit of any motor vehicle liability policy particulars of the policy within ten days after written demand therefor. R.S.O. 1950, c. 183, s. 215.

POLICIES OTHER THAN MOTOR VEHICLE LIABILITY POLICIES

225. A policy, other than a motor vehicle liability policy, may contain a clause to the effect that the insurer in the event of loss will pay only an agreed portion of any loss that may be sustained or the amount of the loss after deduction of a sum specified in the policy, in each case not exceeding the amount of the insurance, in which case there shall be printed upon the face of the policy in conspicuous type, in red ink, the words, "This policy contains a partial payment of loss clause." R.S.O. 1950, c. 183, s. 216.

226. Where a claim is made under a policy, other than a motor vehicle liability policy, the insurer shall, notwithstanding any agreement, adjust the amount of the claim with the insured named in the policy as well as with any person having an interest indicated in the policy. R.S.O. 1950, c. 183, s. 217.

PART VII

ACCIDENT AND SICKNESS INSURANCE

227. In this Part,

(a) "contract" means a contract of accident insurance or of sickness insurance or of both;

(b) "creditor's group accident insurance" and "creditor's group sickness insurance" mean, respectively, accident insurance and sickness insurance effected by a
creditor whereby the lives or well-being or the lives and well-being of a number of his debtors are insured severally under a single contract;

(c) "group accident insurance" and "group sickness insurance" mean, respectively, accident insurance and sickness insurance, other than creditor's group accident insurance and creditor's group sickness insurance, whereby the lives or well-being or the lives and well-being of a number of persons are insured severally under a single contract between an insurer and an employer or other person contracting with the insurer;

(d) "insured" means a person who makes a contract with an insurer;

(e) "person" includes a firm, partnership or corporation, an unincorporated society or association, and a trade union;

(f) "person insured" means a person in respect of an accident to whom, or in respect of whose sickness, benefits are payable under a contract. 1956, c. 32, s. 17, part.

228.—(1) This Part applies to accident insurance and to sickness insurance and to an insurer carrying on the business of accident insurance or sickness insurance or both.

(2) This Part does not apply to,

(a) creditor's group accident insurance;

(b) creditor's group sickness insurance;

(c) disability insurance;

(d) double indemnity insurance; or

(e) insurance provided under section 220.

(3) This Part, except sections 229, 237, 238, 244, 246, 247, 248 and 251, does not apply to group accident insurance or group sickness insurance. 1956, c. 32, s. 17, part.

THE CONTRACT

229. A contract shall be evidenced by an instrument in writing called, in this Part, a policy. 1956, c. 32, s. 17, part.

230. The policy shall contain the name and address of the insurer, the name of the insured, the name of the person to whom the insurance money is payable, the premium for the insurance, the indemnity for which the insurer may become
liable, the event on the happening of which the liability is to accrue, and the term of the insurance. 1956, c. 32, s. 17, part.

Exceptions or reductions

231.—(1) Subject to subsections 2, 3 and 4, the statutory conditions in section 232 and section 245, the insurer shall set forth in the policy every exception or reduction affecting the amount payable under the contract, either in the provision affected by the exception or reduction or under a heading such as "Exceptions" or "Reductions".

(2) Where the exception or reduction affects only one provision in the policy, it shall be set forth in that provision.

(3) Where the exception or reduction is contained in an endorsement, insertion or rider, the endorsement, insertion or rider shall, unless it affects all amounts payable under the contract, make reference to the provisions in the policy affected by the exception or reduction.

(4) This section does not apply to a policy issued by a fraternal society. 1956, c. 32, s. 17, part.

Idem

Idem

Where not applicable

232. Subject to section 233, the conditions set forth in this section shall be deemed to be part of every contract and shall be printed on every policy with the heading "Statutory Conditions".

STATUTORY CONDITIONS

1.— (1) The Contract

This policy, including the endorsements, insertions or riders, if any, and the application for the contract, if attached to the policy, constitutes the entire contract and no agent has authority to change the contract or waive any of its provisions.

(2) Waiver

The insurer shall be deemed not to have waived any condition of this contract, either in whole or in part, unless the waiver is clearly expressed in writing signed by the insurer.

2. Material Facts

No statement made by the insured on his application for this contract may be used in defence of a claim under, or to avoid, this contract unless it is contained in the written application for the contract and unless a copy of the application, or such part thereof as is material to the contract, is endorsed upon, inserted in or attached to the policy when issued.

3.—(1) Changes in Occupation

If, after this policy is issued, the person insured engages for compensation in an occupation that is classified by the insurer as more hazardous than that stated in this policy, the liability under this contract is limited to the amount that the premium paid would have purchased for the more hazardous occupation according to the limits, classification of risks and premium rates in use by the insurer at the time the person insured engaged in the more hazardous occupation.

(2) If the person insured changes his occupation from that stated in this policy to an occupation classified by the insurer as less hazardous and so advises the insurer in writing, the insurer shall either

(a) reduce the premium rate, or
5. Termination by Insured

(b) issue a policy for the unexpired term of this contract at the lower rate of premium applicable to the less hazardous occupation, according to the limits, classification of risks and premium rates used by the insurer at the date of receipt of advice of the change in occupation, and shall refund to the insured the amount by which the unearned premium on this contract exceeds the premium at the lower rate for the unexpired term.

4. Relation of Earnings to Insurance

Where the benefits for loss of time payable hereunder, either alone or together with benefits for loss of time under another contract, including a contract of group accident insurance or group sickness insurance or of both and a life insurance contract providing disability insurance, exceed the money value of the time of the person insured, the insurer is liable only for that proportion of the benefits for loss of time stated in this policy that the money value of the time of the person insured bears to the aggregate of the benefits for loss of time payable under all such contracts and the excess premium, if any, paid by the insured shall be returned to him by the insurer.

5. Termination by Insured

The insured may terminate this contract at any time by giving written notice of termination to the insurer by registered mail to its head office or chief agency in Ontario or by delivery thereof to an authorized agent of the insurer in Ontario and the insurer shall, upon surrender of this policy, refund the amount of premium paid in excess of the short rate premium for the expired time according to the table in use by the insurer at the time of termination.

6.—(1) Termination by Insurer

The insurer may terminate this contract at any time by giving written notice of termination to the insured and by refunding concurrently with the giving of notice the amount of premium paid in excess of the pro rata premium for the expired time.

(2) The notice of termination may be delivered to the insured, or it may be sent by registered mail to the latest address of the insured on the records of the insurer.

(3) Where the notice of termination is delivered to the insured, five days notice of termination shall be given; where it is mailed to the insured, ten days notice of termination shall be given and the ten days begin on the day following the arrival of the notice at the post office to which it is addressed.

7.—(1) Notice and Proof of Claim

The insured or his agent, or a beneficiary entitled to make a claim or his agent, shall

(a) give written notice of claim to the insurer

(i) by delivery thereof, or by sending it by registered mail, to the head office or chief agency of the insurer in Ontario, or

(ii) by delivery thereof to an authorized agent of the insurer in Ontario,

not later than thirty days from the date of the accident or the beginning of the disability due to sickness;

(b) within ninety days from the date of the accident or the beginning of the disability due to sickness for which the claim is made, furnish to the insurer such proof of claim as is reasonably possible in the circumstances of the happening of the accident or sickness and the loss occasioned thereby; and

(c) if so required by the insurer, furnish a certificate as to the cause and nature of the accident or sickness for which the claim is made and as to the duration of the disability caused thereby, from a medical practitioner legally qualified to practise in Ontario.
(2) **Failure to Give** Notice or Proof of claim within the time prescribed in this statutory condition does not invalidate the claim if the notice or proof is given or furnished as soon as reasonably possible and in no event later than one year from the date of the accident or the beginning of the disability due to sickness and if it is shown that it was not reasonably possible to give notice or furnish proof within the time so prescribed.

8. **Insurer to Furnish Forms for Proof of Claim** The insurer shall furnish forms for proof of claim within fifteen days after receiving notice of claim, but where the claimant has not received the forms within that time, he may submit his proof of claim in the form of a written statement of the happening and character of the accident or sickness giving rise to the claim and of the extent of the loss.

9. **Right of Examination** The insurer has the right, and the claimant shall afford to the insurer an opportunity, to examine the person of the person insured when and as often as it reasonably requires while the claim hereunder is pending, and also, in the case of the death of the person insured, to make an autopsy subject to any law of Ontario relating to autopsies.

10. **When Moneys Payable Other Than for Loss of Time** All moneys payable under this contract other than benefits for loss of time shall be paid by the insurer within sixty days after it has received proof of claim.

11. **When Loss of Time Benefits Payable** The initial benefits for loss of time shall be paid by the insurer within thirty days after it has received proof of claim, and payments shall be made thereafter within each succeeding sixty-day period while the insurer remains liable for the payments if the insured, whenever required to do so, furnishes before payment proof of continuing disability.

12. **Limitation of Actions** An action or proceeding against the insurer for the recovery of a claim under this contract shall not be begun after one year from the date on which the cause of action arose.

1956, c. 32, s. 17, part.

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**Omission or variation of conditions**

233.—(1) Where a statutory condition is not applicable to the benefits provided by the contract, it may be omitted from the policy or varied so that it will be applicable.

(2) Statutory conditions 3, 4 and 9 may be omitted from the policy if the contract does not contain any provisions respecting the matters dealt with therein.

(3) Statutory conditions 5 and 6 may be omitted from the policy if the contract does not provide that it may be terminated by the insurer.

(4) Statutory conditions 3, 4, 5, 6 and 9, and statutory condition 7 except, in policies providing benefits for loss of time, clauses a and b of paragraph 1 thereof, may be varied, but, if by reason of the variation the contract is less favourable to the insured, person insured or beneficiary than it would be if the condition had not been varied, the condition shall be deemed to be included in the policy in the form in which it appears in section 232.
(5) Statutory conditions 10 and 11 may be varied by shortening the periods of time prescribed therein and statutory condition 12 may be varied by lengthening the period of time prescribed therein.

(6) The title of a statutory condition shall be reproduced in the policy along with the statutory condition but the number of a statutory condition may be omitted.

(7) In the case of a contract made by a fraternal society, the following provision shall be printed on every policy in substitution for paragraph 1 of statutory condition 1 in section 232:

1.—(1) The Contract This policy, the Act or instrument of incorporation of the insurer, its constitution, by-laws and rules, and the amendments made from time to time to its constitution, by-laws or rules, the application for the contract and the medical statement of the applicant constitute the entire contract and no agent has authority to change the contract or waive any of its provisions.

and

(b) statutory condition 5 in section 232 shall not be printed on the policy. 1956, c. 32, s. 17, part.

234. Where a policy of accident insurance is issued through the agency of a transportation corporation that holds a licence issued under section 315, the statutory conditions set out in section 232 need not be printed on the policy if the policy contains the following notice printed in conspicuous type: "Notwithstanding any other provision herein contained this contract is subject to the statutory conditions respecting contracts of accident insurance." 1956, c. 32, s. 17, part.

235.—(1) Where a policy is delivered, the contract is as binding on the insurer as if the premium had been paid, although it has not in fact been paid, and although delivered by an officer or agent of the insurer who did not have authority to deliver it.

(2) The insurer may deduct the unpaid premium from the amount for which it may become liable under the contract or may sue the insured therefor.

(3) Where the premium or a part thereof is paid by a cheque or a promissory note and the cheque is not paid on presentation or the promissory note is not paid at maturity, the contract is voidable at the option of the insurer.

(4) This section does not apply to a contract made by a fraternal society. 1956, c. 32, s. 17, part.
236. Every person has an insurable interest in his own life and well-being. 1956, c. 32, s. 17, part.

237. Without restricting the meaning that “insurable interest” now has in law, each of the following persons has an insurable interest:

1. A parent in the life and well-being of his child under twenty-five years of age.
2. A husband in the life and well-being of his wife.
3. A wife in the life and well-being of her husband.
4. One person in the life and well-being of another upon whom he is wholly or in part dependent for support or education, or from whom he is receiving support or education.
5. A corporation or other person in the life and well-being of its or his officer or employee.
6. A person who has a pecuniary interest in the duration of the life and continued well-being of another person, in the life and well-being of that person. 1956, c. 32, s. 17, part.

238.—(1) A contract is void if, at the time at which it would otherwise take effect and be binding, the insured has no insurable interest in the person insured.

(2) Notwithstanding subsection 1, a contract of group accident insurance or of group sickness insurance or of both is valid if it provides benefits solely for the person insured under the contract. 1956, c. 32, s. 17, part.

239. Where the insured has at the time at which the contract takes effect an insurable interest in the person insured, it is not necessary for the validity of the contract or an assignment thereof that a beneficiary, or a person claiming under an assignment, or by will or by succession, has an insurable interest. 1956, c. 32, s. 17, part.

POLICIES ON THE LIVES OF MINORS

240. A minor, after attaining the age of fifteen years, has the capacity of a person of full age,

(a) to effect a contract on his own life or well-being and to deal with the contract;
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(b) to deal with a contract on his own life or well-being effected by him before attaining the age of fifteen years;

c) to deal with his interest in a contract effected on his life or well-being by another, whether effected before or after the minor attained the age of fifteen years; and

(d) if married, to effect a contract on the life or well-being of his spouse or of his children, or of both, and to deal with the contract. 1956, c. 32, s. 17, part.

MISREPRESENTATION AND NON-DISCLOSURE

241. The statements made by the insured in his application for the contract are, in the absence of fraud, representations and not warranties. 1956, c. 32, s. 17, part.

242.—(1) Except as provided in subsection 2, after a contract, including renewals thereof, has been in force for two years with respect to a person insured, every statement made in the written application in respect of that person, other than a fraudulent statement or a statement erroneous as to age, shall be deemed to be true and is incontestable.

(2) Where a claim arises from a loss incurred or a disability beginning before a contract, including renewals thereof, has been in force for two years with respect to the person in respect of whom the claim is made, subsection 1 does not apply to that claim. 1956, c. 32, s. 17, part.

243. Where a person insured suffers or has suffered from a disease or physical condition that existed before the date the contract came into force with respect to that person and the disease or physical condition is not specifically excluded from the insurance,

(a) the prior existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability, in whole or in part, for a loss incurred or a disability beginning after the contract, including renewals thereof, has been in force for two years with respect to that person; and

(b) the existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability, in whole or in part, if the disease or physical condition was disclosed in the written application for the contract. 1956, c. 32, s. 17, part.
244.-(1) Where insurance money is payable upon death by accident, the insured, or, in the case of group accident insurance, the person insured, may designate in writing a beneficiary to receive the insurance money or part thereof and may alter or revoke in writing any prior designation.

(2) If the beneficiary is not living at the time of the death of the person insured, the insurance money is payable to the insured or his estate, or, in the case of group accident insurance, the estate of the person insured, unless the instrument by which the beneficiary is designated otherwise provides.

(3) A beneficiary designated under subsection 1 may upon the death of the person insured enforce for his own benefit the payment of insurance money payable to him and payment to the beneficiary discharges the insurer, but the insurer may set up any defence that it could have set up against the insured, or the person insured in the case of group accident insurance, or the personal representative of either of them.

1956, c. 32, s. 17, part.

245.-(1) Subject to subsection 2, if the age of the person insured has been misstated, the amounts payable under the contract are those that the premium paid would have purchased if the correct age had been stated.

(2) Where the age of the person insured affects the commencement or termination of the insurance, the true age governs. 1956, c. 32, s. 17, part.

246. Where a contract provides for the payment of moneys upon the death by accident of the person insured and the person insured and a beneficiary perish in the same disaster, it shall be prima facie presumed that the beneficiary died first. 1956, c. 32, s. 17, part; 1957, c. 51, s. 9.

247.—(1) Where the insurer admits liability for the insurance money or any part thereof, and it appears to the insurer that,

(a) there are adverse claimants;

(b) the place of abode of a person entitled is unknown; or

(c) there is no person capable of giving and authorized to give a valid discharge, who is willing to do so,
the insurer may apply *ex parte* to the court for an order for payment of the money into court, and the court may upon such notice, if any, as it thinks necessary make an order accordingly.

(2) The court may fix and ascertain without taxation the costs incurred upon or in connection with any application or order made under subsection 1 and may order the costs to be paid out of the insurance money or by the insurer or otherwise as seems just.

(3) A payment made pursuant to an order under subsection 1 discharges the insurer to the extent of the payment. 1956, c. 32, s. 17, *part.*

248. Where insurance money is payable to a beneficiary or to the estate of the insured or of the person insured, the insurer may, if the contract so provides, pay an amount not exceeding $2,000 to,

(a) a relative by blood or connection by marriage of the insured or of the person insured; or

(b) any person appearing to the insurer to be equitably entitled thereto by reason of having incurred expense for the maintenance, medical attendance or burial of the insured or person insured or to have a claim against the estate of the insured or of the person insured in relation thereto. 1956, c. 32, s. 17, *part.*

249. The insurer shall not, in the policy, give undue prominence to any provision or statutory condition as compared to other provisions or statutory conditions, unless the effect of that provision or statutory condition is to increase the premium or decrease the benefits otherwise provided for in the policy. 1956, c. 32, s. 17, *part.*

250. Where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the claimant or as to any matter or thing to be done or omitted by the insured or claimant with respect to the loss insured against, and a consequent forfeiture or avoidance of the insurance in whole or in part, and a court before which a question relating thereto is tried deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as it deems just. 1956, c. 32, s. 17, *part.*

251. No officer, agent, employee or servant of the insurer or any person soliciting accident insurance or sickness insurance or both, whether an agent of the insurer or not, shall, to
the prejudice of the insured or of the person insured, be deemed to be for any purpose whatever the agent of the insured or of the person insured in respect of any question arising out of the contract. 1956, c. 32, s. 17, part.

PART VIII

LIVE STOCK INSURANCE

252. This Part applies to live stock insurance and to any insurer carrying on the business of live stock insurance in Ontario. R.S.O. 1950, c. 183, s. 227.

253. Every insurer licensed for the transaction of live stock insurance may, within the limits and subject to the conditions prescribed by the licence, insure against loss of live stock, by fire, lightning, accident, disease or other means, except that of design on the part of the insured, or by the invasion of any enemy or by insurrection. R.S.O. 1950, c. 183, s. 228.

254. The following provisions of Part IV apply to live stock insurance contracts:

1. The provisions as to the form and contents of the policy.

2. The provisions as to the conditions, including the statutory conditions, except where inapplicable to the nature of the risk.

3. The provisions relating to premium notes and assessments, other than sections 121, 122 and 132, where the insurance is on the premium note plan. R.S.O. 1950, c. 183, s. 229.

255.—(1) Contracts of insurance shall not in any case exceed the term of two years.

(2) A contract made for one year or any shorter period may be renewed from time to time at the discretion of the directors by renewal receipt instead of by policy, on the assured paying the required premium or giving his premium note, and all payments or renewal by cash or premium notes must be made at or before the end of the period for which the policy was granted or renewed, otherwise the policy is void.

(3) No premium note taken under a contract of insurance shall exceed 40 per cent or be less than 10 per cent per annum of the sum insured, and no renewal receipt shall extend the contract beyond two years from the date of the policy. R.S.O. 1950, c. 183, s. 230.
PART IX

WEATHER INSURANCE

256. This Part applies to weather insurance and to any insurer carrying on the business of weather insurance in Ontario, but does not apply to weather insurance provided by an endorsement to a contract of fire insurance. R.S.O. 1950, c. 183, s. 231.

257. Every insurer licensed for the transaction of weather insurance may, within the limit and subject to the conditions prescribed by the licence, insure against such atmospheric disturbances, discharges or conditions as the contract of insurance specifies. R.S.O. 1950, c. 183, s. 232.

258.—(1) The following provisions of Part IV apply to weather insurance contracts:

1. The provisions as to the form and contents of the policy.

2. The provisions as to the conditions, including the statutory conditions, except where inapplicable to the nature of the risk.

3. The provisions relating to premium notes and assessments, other than sections 121, 122 and 132, where the insurance is on the premium note plan. R.S.O. 1950, c. 183, s. 233 (1).

4. The provisions relating to a refund from surplus. 1953, c. 48, s. 4.

(2) The following additional conditions form part of every weather insurance contract:

1. The insurance may be terminated by the insurer by giving seven days notice to that effect.

2. The insurer is not liable for loss or damage occurring to buildings or structures or to their respective contents where the building or structures have been weakened by subsequent alterations unless permission to make such alterations has been previously granted in writing signed by a duly authorized agent of the insurer. R.S.O. 1950, c. 183, s. 233 (2).

259. A contract of weather insurance shall not in any case exceed the term of three years. R.S.O. 1950, c. 183, s. 234.
260. On every premium note taken by the insurer there shall be payable at the commencement of the three-year term of insurance a basic cash payment amounting to at least three-fifths of 1 per cent of the sum insured or pro rata where the cash payment is paid in advance for a shorter term, and the premium note shall, as to the balance thereof, be subject to assessment by the directors, and when the amount of insurance in force exceeds $10,000,000 and the total assets of the company, including premium note residue, do not fall below 2 per cent of the total amount at risk, the basic cash payment may be reduced to three-eights of 1 per cent of the sum insured for three years or pro rata for a shorter term, and when the amount of insurance in force exceeds $25,000,000 and the total assets of the company, including premium note residue, do not fall below 1 1/2 per cent of the total amount at risk, the Superintendent may authorize a further reduction of the basic cash payment for three years, which shall not be less than three-tenths of 1 per cent of the sum insured or pro rata for a shorter term. 1953, c. 48, s. 5.

PART X

FRATERNAL SOCIETIES

261. In this Part,

(a) "actuary" means a Fellow of the Society of Actuaries, or of the Institute of Actuaries of Great Britain, or of the Faculty of Actuaries in Scotland;

(b) "rates of contribution" means the regular net premiums, dues, rates or contributions receivable from the members for the purpose of the payment at maturity of the society's certificates or contracts of insurance;

(c) "society" means a fraternal society. R.S.O. 1950, c. 183, s. 236.

262.—(1) Subject to subsection 2, this Part applies to all fraternal societies carrying on the business of insurance in Ontario.

(2) Sections 278 to 282 do not apply to a fraternal society the membership of which is limited by its constitution or laws to municipal or government employees. R.S.O. 1950, c. 183, s. 237.
263. Fraternal societies required to be licensed under this Act include,

(a) a company, society, association or organization incorporated before the 10th day of March, 1890, under chapter 172 of The Revised Statutes of Ontario, 1887, or a predecessor thereof;

(b) a society incorporated under chapter 183 of The Revised Statutes of Ontario, 1914, that undertakes insurance against death or a predecessor thereof;

(c) an association of the civil servants or employees of Canada incorporated by or under the authority of an Act of the Parliament of Canada;

(d) a fraternal society incorporated after the 1st day of January, 1924, under The Corporations Act or a predecessor thereof. R.S.O. 1950, c. 183, s. 238, revised.

264. No fraternal society shall be licensed,

(a) if it undertakes insurance contracts with persons other than its own members; or

(b) except as provided in section 287, if it insures or indemnifies against contingencies other than sickness, accident, disability, death or funeral expenses; or

(c) if it has upon its books fewer than seventy-five members in good standing; or

(d) if it is in effect the property of its officers or collectors, or of any other person for his own benefit, or is conducted as a mercantile or business enterprise, or for the purpose of mercantile profit, or if its funds are under the control of persons or officers appointed for life and not under that of the insured; or

(e) in the case of a fraternal society that has not been authorized to carry on business in Ontario before the 1st day of January, 1925, unless the society files with the Superintendent a declaration of its actuary in the form and to the effect required by subsection 2 of section 277. R.S.O. 1950, c. 183, s. 239; 1952, c. 41, s. 1.
The following shall be deemed not to be fraternal societies within the meaning of this Part and shall not be required or entitled to be licensed as such:

1. Societies known as mutual benefit societies as defined in section 1 and subject to Part XI, including,
   i. a society incorporated under sections 36 to 41 of chapter 183 of The Revised Statutes of Ontario, 1914, or any Act for which that Act was substituted that does not undertake contracts of life insurance, and
   ii. a trade union in Ontario that under the authority of its incorporating Act or charter has an insurance or benefit fund for the benefit of its own members exclusively, and
   iii. a mutual benefit society incorporated after the 1st day of January, 1925, under The Corporations Act or a predecessor thereof.

2. Pension fund and employees' benefit societies incorporated under The Corporations Act or a predecessor thereof.

3. A corporation not otherwise provided for in this Act that has by or under the authority of an Act of the Parliament of Canada created a fund for paying a gratuity on the happening of death, sickness, infirmity, casualty, accident, disability or any change of physical or mental condition.

4. A corporation not otherwise provided for in this Act that has by or under the authority of an Act of the Parliament of Canada an insurance and provident society or association, or an insurance or guarantee fund in connection with the corporation.

5. A corporation that undertakes or offers to undertake contracts of insurance prohibited by section 264.

6. A corporation in which the insurance fund is used for the purposes of a mercantile or business enterprise, or for mercantile profit, or a society formed on the lodge system, the insurance fund of which is held other than as a trust fund for the members insured.

7. A society in which the persons insured do not exercise, either directly or through representatives elected for a term not exceeding four years, effective
control over the insurance fund of the society, or in which the officers or other persons having the disposition, control or possession of the insurance fund are elected or appointed for a longer period than four years.

8. Any corporation that undertakes contracts of insurance but is not formed exclusively for that purpose and that does not for the purposes of such contracts keep distinct and separate funds, securities, books and vouchers. R.S.O. 1950, c. 183, s. 240.

266. Clause b of section 264 does not apply to contracts guaranteeing the fidelity of officers, servants or employees of the branches or subdivisions of a corporation. 1952, c. 41, s. 2.

267.—(1) Where two or more lodges or branches of a society, though separately incorporated, are under the financial or administrative control of a central governing body in Ontario, or a duly authorized provincial representative of the society, such governing body, if incorporated, or such provincial representative of the society may, if the Superintendent thinks proper, be dealt with as the society.

(2) In the case of a fraternal society incorporated elsewhere than in Ontario, the central governing or controlling body in Ontario, if incorporated by virtue of the law of Ontario, may, if the Superintendent thinks proper, be dealt with as the society. R.S.O. 1950, c. 183, s. 242.

268.—(1) Every fraternal society shall, with its application for licence, file in the office of the Superintendent duly certified copies in duplicate of those articles or provisions of the subsisting constitution, by-laws or rules that contain material terms not set out in the instrument of contract adopted by the society, and shall, from time to time, file in the office of the Superintendent duly certified copies in duplicate of every amendment, revision or consolidation of such articles or provisions of the constitution, by-laws and rules within thirty days after the passing or adoption of the amendment, revision or consolidation.

(2) The Superintendent may, within thirty days after the date of such filing, take exception to any amendment or revision or any part thereof if, in his opinion, the amendment or revision or any part thereof is contrary to this Act, or is actuarially unsound, or is oppressive to or discriminatory in application against any class of the membership of the society, or is unjust or unreasonable.
(3) If the Superintendent takes exception to any such amendment or revision or any part thereof in accordance with this section, he shall forthwith notify the society thereof in writing and the reasons therefor.

Appeal

(4) The society or any person who deems himself aggrieved by the decision of the Superintendent may appeal therefrom in the manner provided by section 12.

Certified by-laws and rules to be filed with Provincial Registrar

(5) The original constitution, by-laws and rules and any amendment, revision or consolidation thereof, to which the Superintendent does not take exception, or that, after the Superintendent has taken exception to an amendment or revision or any part thereof, have been further amended in accordance with the Superintendent's direction, or that, after the Superintendent has taken exception to an amendment or revision or any part thereof, has been approved and confirmed on appeal from the Superintendent as herein provided, shall be certified by the Superintendent to be duly passed by the society as filed, and a copy thereof so certified by the Superintendent shall be filed by him in the office of the Provincial Secretary.

(6) The constitution, by-laws or rules and any amendment, revision or consolidation thereof so certified shall, notwithstanding the declaration or other instrument filed under any general or special Act, be deemed to be the rules in force on and after the date of the certificate until a subsequent amendment, revision or consolidation is in like manner certified and filed and so from time to time, and are binding and obligatory upon all members of the society and upon all their beneficiaries and legal representatives and upon everyone entitled to any benefit under any certificate of the society, but the failure of the Superintendent to take exception to any rule of the society or amendment or revision thereof and his certifying and filing of the same does not make valid any provision of such rule that is inconsistent with this Act.

(7) This section does not apply to the constitution, by-laws and rules of a society or any amendment, revision or consolidation thereof passed and adopted by the society before the 1st day of January, 1925. R.S.O. 1950, c. 183, s. 243.

Where section does not apply

269. Where because of a provision in any of its rules a society otherwise entitled to be licensed ought not, in the opinion of the Superintendent, to be licensed, it is not entitled to a licence until it has repealed or amended such rules in accordance with the direction of the Superintendent. R.S.O. 1950, c. 183, s. 244.

Where rules must be amended

270.—(1) A copy of all rules of a society relating to its insurance contracts and to the management and application
of its insurance funds shall be delivered by the society to any person requiring it on payment of 25 cents.

(2) An officer or agent of a society who, with intent to mislead or defraud, gives a person a copy of rules other than the rules then in force on the pretence that they are the rules then in force is guilty of an offence. R.S.O. 1950, c. 183, s. 245.

271.—(1) Where by the constitution and rules of a society provision is made for the payment of an ascertained or ascertainable sum to a member of the society in the event of his becoming totally disabled, or of his reaching a stated age, or upon the concurrence of both events, whether such provision is combined with other life insurance or not, the society may, with the approval of the Superintendent, so amend its constitution and rules as to provide for the payment of such sum in equal consecutive annual instalments without interest, the payment of such instalments to be completed within a period not exceeding ten years from the happening of the event, but no person who has become entitled, or may become so entitled as aforesaid, to any such annual instalment shall receive payment of it unless at the maturity of each instalment such person has continued to be a member of the society and has paid all dues and assessments adopted by the society.

(2) All such amendments that have heretofore been or that are hereafter made by a society under its constitution and rules are valid and binding upon all its members and upon all their beneficiaries and personal representatives and upon everyone entitled, notwithstanding anything to the contrary in the instrument of incorporation of the society or the previous provisions of its constitution and rules.

(3) If a member of the society dies after becoming totally disabled or reaching the stated age, but before the payment of all instalments, the instalments unpaid form part of the insurance money or benefits payable upon the death of such member.

(4) No unmatured policy or contract of insurance creates any claim or liability against the society while a going society, or against the estate of the society in a winding-up or liquidation, but in a winding-up or liquidation the insured or beneficiary for value under such unmatured policy or contract is entitled to share in the surplus assets of the society. R.S.O. 1950, c. 183, s. 246.

272.—(1) The liabilities of a member under his contract at any date is limited to the assessments, fees and dues that became payable within the preceding twelve months and of which at such date notice had been given in accordance with the constitution and rules of the society.
Withdrawal of member

(2) A member may at any time withdraw from the society by delivering or sending by registered mail to the society notice in writing of his intention to withdraw and paying or tendering the assessments, fees and dues mentioned in subsection 1.

Release from liability

(3) After such withdrawal, the member becomes thereby released from all further liability under his contract.

Subject to rules

(4) This section is subject to any rules to the contrary certified by the Superintendent and filed with the Provincial Secretary as hereinbefore provided. R.S.O. 1950, c. 183, s. 247.

Notice before forfeiture of benefit

273.—(1) No forfeiture or suspension shall be incurred by reason of any default in paying any contribution or assessment, except such as are payable in fixed sums and at fixed dates, until after notice to the member stating the amount due by him, and that in case of default of payment within a reasonable time, not less than thirty days, to the proper officer, who shall be named in such notice, his interest or benefit will be forfeited or suspended, and default has been made by him in paying his contributions or assessment in accordance with such notice.

(2) In subsection 1, “fixed dates” includes any numbered day, or any Monday, Tuesday, or as the case may be, numbered, alternate or recurring, of a stated month or months.

(3) Where under the constitution or rules or by-laws of the society a defaulting member is entitled to be reinstated on payment of arrears, after a stated number of days default, this section does not prejudice the rights of such member. R.S.O. 1950, c. 183, s. 248.

Interpretation

274.—(1) Where it is stipulated that the benefit of the contract will be suspended or reduced or forfeited for any other reason than for non-payment of money, such condition is not valid unless it is held to be just and reasonable under the circumstances of the case.

(2) In any contract of which total abstinence from intoxicating liquors is made an express condition, such condition shall be deemed to be just and reasonable. R.S.O. 1950, c. 183, s. 249.

Saving rights to reinstatement

275.—(1) Subject to subsection 2, a notice required to be given to a member for any purpose of this Act or of the rules of the society may be effectually given if written or printed notice is delivered, or is sent by registered mail to the member, or is left at his last known place of abode or of business or by publication in the official paper of the society.
(2) A notice of the reduction of any benefit payable under a contract of insurance or of the increase of the premium payable thereunder shall be sent by registered mail to the member at his last known place of abode or of business. R.S.O. 1950, c. 183, s. 250.

276. A society incorporated under any Act of the Legislature is not entitled to a licence unless its head office is located and maintained in Ontario and the secretary and treasurer are bona fide residents in Ontario. R.S.O. 1950, c. 183, s. 251.

277.—(1) Subject to subsection 4, in addition to the annual statement required to be filed under this Act, each society shall file with the Superintendent, not later than the 1st day of May in each year, a valuation of its certificates or contracts of insurance in force at the last preceding 31st day of December, which valuation shall have regard to the prospective liabilities of the society under its certificates or contracts of insurance and to the rates of contribution to be thereafter received from its members on such certificates according to the rates in force at the date of valuation and shall be made and certified by an actuary appointed by the society and shall include a valuation balance sheet in such form and detail as the Superintendent from time to time prescribes.

(2) Where in the opinion of the actuary appointed by the society the valuation balance sheet shows that the society is in a position to provide for the payment of its contracts of insurance as they mature without deduction or abatement and without increase in its existing rates of contribution, the society shall file with the Superintendent a declaration of the actuary to that effect.

(3) A summary of the valuation certified by the actuary and a statement as to the financial condition of the society disclosed by such valuation shall be mailed to each insured member not later than the 1st day of June in each year or in lieu thereof such certified summary of the valuation and statement of the actuary may be published in the society's official paper and a copy mailed to each insured member.

(4) A fraternal society whose membership is limited by its constitution or laws to municipal or government employees shall not be required to file the valuation mentioned in subsection 1 or to publish the summary thereof mentioned in subsection 3 unless and until required by the Superintendent in writing so to do. R.S.O. 1950, c. 183, s. 252.

278.—(1) If it appears to the Superintendent from the statement and reports filed with him or from an examination or valuation made under this Act that the assets of a licensed fraternal society applicable to the payment of its insurance...
contracts are insufficient to provide for the payment of its contracts of insurance at maturity without deduction or abatement and without increase in its existing rates of contribution, he shall make a special report to the Minister as to the financial condition of the society.

(2) If the Minister after consideration of the report concurs in the opinion of the Superintendent, the Minister shall request the society to make, within such time as he prescribes, but not exceeding four years, such increase in its rates of contribution or such reduction in the benefits payable under its contracts of insurance or otherwise as will enable the society to provide for the payment of its contracts of insurance at maturity.

(3) On receipt of such request, the society shall take the steps prescribed by its laws or constitution for putting into effect such changes as are approved by the actuary appointed by the society for the purpose aforesaid.

(4) Where in the opinion of the governing executive authority of the society a special meeting of the society is desirable for the purpose of considering the request of the Minister, the authority may call a special meeting of the supreme legislative body of the society upon such notice as the authority deems reasonable and as the Superintendent approves, and such meeting so called shall be deemed to have been regularly constituted notwithstanding anything in its constitution and laws. R.S.O. 1950, c. 183, s. 253.

279. A fraternal society incorporated under the laws of Ontario may by amendment of its constitution and laws reduce the benefits payable under its contracts of insurance or some of them, or increase the rates of contribution payable by its members as a whole or some class or classes thereof, or make such other changes as are necessary to comply with the aforesaid request of the Minister and such amendments when adopted by a majority of the votes duly cast by the members of the supreme legislative body of the society at a regular or special meeting of the supreme legislative body of the society duly called are binding upon the members of the society and upon their beneficiaries or legal representatives and upon all persons deriving legal rights from any member or beneficiary, notwithstanding anything in its constitution and laws before such amendments or in its Act or instrument of incorporation, or in any contract, policy or certificate of insurance heretofore or hereafter issued by the society. R.S.O. 1950, c. 183, s. 254.

280.—(1) Where a society does not within the time allowed comply with the request of the Minister as prescribed by subsection 2 of section 278, the Superintendent shall report
the default to the Minister, who shall thereupon appoint a readjustment committee of three persons of whom at least one must be an actuary who shall at as early a date as prac-
ticable investigate the assets, liabilities, rates of contribution and plans of insurance of the society and prepare a report containing such amendments to the society's constitution and laws reducing the benefits payable under its contracts of insurance or some of them or increasing the rates of con-
tribution payable by its members as a whole or some class or classes thereof, or such other amendments as the readjustment committee deems necessary in order to provide for the payment of all the contracts of insurance of the society as they mature in accordance with the amendments.

(2) The readjustment committee shall file such report in the office of the Superintendent and deliver to the society a certified copy thereof and, immediately upon such report being filed with the Superintendent, the amendments con-
tained therein become part of the constitution and laws of the society and are valid and binding upon all its members and upon their beneficiaries or personal representatives and upon all persons deriving legal rights from any member or beneficiary notwithstanding anything in its constitution and laws before such amendments or in its Act or instrument of incorporation or in any policy or certificate of insurance issued by it.

(3) The readjustment committee shall in the amendments fix a date not more than six months after the date of filing of the report when the reduction of benefits or increase in the rate of contribution provided for by such amendments will be in full force and effect.

(4) The society shall bear the expense of the investigation and report and shall furnish the readjustment committee with required information. R.S.O. 1950, c. 183, s. 255.

281.—(1) Where a society that is unable to furnish the declaration of an actuary prescribed in subsection 2 of section 277 has heretofore adopted or hereafter adopts new rates of contribution that in the opinion of the actuary appointed by the society, filed with the Superintendent, make reasonable provision for the payment in full at maturity of the contracts of insurance issued to its members who have entered or enter the society upon such new rates of contribution, the society shall, after the payment of the matured contracts of such members, create and from time to time maintain out of the rates of contributions of such members and interest accretions thereto a reserve fund not less than the amount that, with the rates of contributions to be collected from such members, is, in the opinion of the actuary, required to pay in full such con-
tracts of insurance as they mature, and such fund shall be a separate fund of the society and is not liable for payment of the debts and obligations of the society under its contracts of insurance with those members who have not contributed to the funds of the society under such new rates of contribution or under subsection 2.

(2) The society may provide in its constitution and laws for the issue of new certificates to members admitted to the society before the establishment of such fund upon such terms and conditions as will, in the opinion of the actuary appointed by the society certified in writing to the Superintendent, enable the society to pay in full the contracts of insurance issued to such members as they mature, and subsection 1 applies to such new certificates.

(3) The annual valuation of the actuary of the society maintaining a separate fund as hereinbefore prescribed shall show clearly and separately and in such detail as the Superintendent requires the financial position of the society in respect of the certificates of insurance included, and those not included, within the scope of the separate fund.

(4) When a society that has been maintaining a separate fund for new members in accordance with this section files with the Superintendent a declaration of the actuary appointed by the society, the separate fund may, with the approval of the Superintendent, be merged with the other funds of the society of a kindred nature.

(5) Nothing herein prevents a society that maintains a separate fund as hereinbefore described from maintaining a common expense fund. R.S.O. 1950, c. 183, s. 256.

282. A society that files with the Superintendent the declaration prescribed by subsection 2 of section 277 or a society that maintains a separate fund for its contracts of insurance as prescribed by section 281 may provide in its constitution and laws for the issue of contracts of life insurance wherein the regular rates of contributions payable thereunder may be limited to a period of twenty or more years, if such rates of contribution have been approved by an actuary and if such certificates of insurance are subject to subsection 1 of section 281, but such limitation of payments does not affect the right of the society to make an assessment or assessments in respect of such certificates in accordance with the constitution and laws of the society either during or after the period of such limited payments. R.S.O. 1950, c. 183, s. 258.
283. In the event of an epidemic or other unforeseen contingency impairing the funds of a society, the governing executive authority of the society may impose a special assessment or special assessments upon the members of the society or upon such class or classes thereof and with such incidence as in the opinion of the governing executive authority is deemed necessary and equitable, and such special assessment or assessments are binding on the members of the society notwithstanding anything to the contrary in its Act or instrument of incorporation or its constitution and laws, or in any certificate of insurance heretofore or hereafter issued by the society. R.S.O. 1950, c. 183, s. 259.

284. The governing executive authority of a society may make such additional levies from time to time upon all members of the society as are necessary, in the opinion of the governing executive authority, to properly carry on the work of the society and prevent any deficit in its general or expense fund, and such additional levies are binding on its members notwithstanding anything to the contrary in its Act or instrument of incorporation, or in its constitution or laws, or in any certificate of insurance heretofore or hereafter issued by it. R.S.O. 1950, c. 183, s. 260.

285. A society whose valuation balance sheet prescribed by subsection 1 of section 277 shows a surplus of assets of more than 5 per cent over and above all its liabilities may apply the surplus or a part thereof, by way of transfer from the mortuary to the expense fund, by waiver of premium, by bonus additions or otherwise, in any manner that may be approved by the actuary appointed by the society, if a certificate of the actuary is filed with the Superintendent at least thirty days before any application or transfer is made certifying that the proposed application or transfer is authorized by the constitution and laws of the society, that it is fair and reasonable and in the best interests of the society, and that it will not prejudice the ability of the society to pay its contracts of insurance as they mature. R.S.O. 1950, c. 183, s. 261.

286. Every licensed fraternal society shall, before putting into effect any new or additional benefits or any new scale of rates of contribution under certificates of insurance, file with the Superintendent a certificate of an actuary approving of such benefits or rates of contribution. R.S.O. 1950, c. 183, s. 262.

287. A fraternal society licensed under this Act that has filed with the Superintendent for at least three successive years a declaration of an actuary as required by subsection 2 of section 277, if duly authorized by a by-law of the society
passed on the recommendation of the actuary, may issue to its members,

(a) endowment or term insurance contracts;

(b) insurance contracts under which the sum or sums payable on the death of any one person, other than a double indemnity accident benefit, is in excess of $10,000; and

(c) annuities of all kinds. 1952, c. 41, s. 3, part.

288. Every by-law referred to in section 287 shall set forth the rates of benefit and indemnity and the amounts of insurance or annuity that may be issued, but such by-law is without effect unless the actuary of the society certifies to the reasonableness of the rates of benefit and indemnity and of the amounts of insurance or annuity having regard to,

(a) all the conditions and circumstances of their issuance;

(b) the sufficiency of the rates of contribution therefor; and

(c) the reasonableness of the loan values, cash values and other equities that may be provided,

and recommends the passing of such by-law. 1952, c. 41, s. 3, part.

289. Notwithstanding sections 287 and 288, any society whose membership is limited by its constitution or laws to municipal or government employees may undertake annuities on lives in the nature of old age pensions. 1952, c. 41, s. 3, part.

290. A fraternal society licensed under this Act that files with the Superintendent a declaration of an actuary as provided by subsection 2 of section 277 may, if its constitution so provides and subject thereto, grant such surrender values or other equities as are approved by its actuary and authorized by its constitution. R.S.O. 1950, c. 183, s. 265.

291.—(1) If it appears to the Superintendent from the statements and reports filed with him or from an examination or valuation made under this Act that the assets of a licensed fraternal society whose membership is limited by its constitution or laws to municipal or government employees applicable to the payment of its insurance contracts are insufficient to provide for the payment of its contracts of insurance at maturity without deduction or abatement and without increase in its existing rates of contribution, he shall make a special re-
port to the Minister and to the head or responsible officer of the municipality or government of which the members of the society are employees as to the financial condition of the society.

(2) The Superintendent shall not make any order or assume any responsibility for the readjustment of rates and benefits of the society necessary to enable it to provide for the payment of the contracts of insurance of the society at maturity, but a synopsis of his special report shall be reported in his annual report. R.S.O. 1950, c. 183, s. 266.

292. Where the constitution, by-laws or rules of a fraternal society provide for a fiscal year other than the calendar year, the Superintendent may, in his discretion, accept statements from it showing its affairs as at the end of the fiscal year instead of as at the end of the calendar year. R.S.O. 1950, c. 183, s. 267.

PART XI

MUTUAL BENEFIT SOCIETIES

293. Mutual benefit societies required to be licensed under this Act include,

(a) a society incorporated under sections 36 to 41 of chapter 183 of the Revised Statutes of Ontario, 1914, or a predecessor thereof that does not undertake contracts of life insurance;

(b) a mutual benefit society incorporated after the 1st day of January, 1925, under The Corporations Act, or a predecessor thereof. R.S.O. 1960, c. 71.

294.—(1) Subject to subsection 2, no mutual benefit society shall be licensed or have its licence renewed,

(a) if it has upon its books less than seventy-five members in good standing;

(b) if it insures or indemnifies against contingencies other than sickness, disability or funeral expenses;

(c) if it contracts for sick benefits for an amount in excess of $30 per week or for a funeral benefit in excess of $300;

(d) if it undertakes insurance contracts with persons other than its own members;
(e) if it is in effect the property of its officers or collectors, or of any other person for his own benefit, or is conducted as a mercantile or business enterprise, or for the purpose of mercantile profit, or if its funds are under the control of persons or officers appointed for life and not under that of the insured;

(f) if it has charge of or manages or distributes charity or gratuities or donations only. R.S.O. 1950, c. 183, s. 269 (1); 1959, c. 44, s. 7.

Exception

(2) The Minister may, in his discretion, renew the licence of any mutual benefit society notwithstanding that it has upon its books, at the time of application for the renewal, less than seventy-five members in good standing. R.S.O. 1950, c. 183, s. 269 (2).

295. Sections 267, 268 and 269 apply mutatis mutandis to societies licensed under this Part. R.S.O. 1950, c. 183, s. 270.

296. Where the constitution, by-laws or rules of a mutual benefit society that grants benefits solely through subordinate lodges or branches provide for a fiscal year other than the calendar year, the Superintendent may, in his discretion, accept statements from it showing its affairs as at the end of its fiscal year instead of as at the end of the calendar year. R.S.O. 1950, c. 183, s. 271.

PART XII

PENSION FUND ASSOCIATIONS

297.—(1) This Part applies to all applications for licence of pension fund associations and to such pension fund associations when licensed under this Act.

(2) Subject to the express provisions of this Part, the provisions of this Act applicable to insurers licensed to undertake contracts of life insurance in Ontario, except sections 40 to 73, section 80 and Part V, apply to all pension fund associations. R.S.O. 1950, c. 183, s. 272.

298. In addition to the annual statements required to be filed by every licensed insurer on or before the last day of February in each year, each pension fund association shall file with the Superintendent, in such form and at such times as he requires, a valuation of its certificates or contracts of insurance, which valuation shall have regard to the prospective liabilities of the pension fund association under its cer-
tificates or contracts of insurance, and to the rates of contribution to be thereafter received from its members on such certificates according to the rates of contribution in force at the date of valuation, and shall be made and certified by an actuary appointed by the pension fund association and approved by the Superintendent, and shall include a valuation balance sheet in such form and detail and according to such standards of valuation, having regard to the table of mortality and the rate of interest to be employed, as the Superintendent from time to time prescribes. R.S.O. 1950, c. 183, s. 273.

PART XIII

RECI PROCAL OR INTER-INSURANCE EXCHANGES

299. In this Part, unless the context otherwise requires, 
(a) “attorney” means a person authorized to act for subscribers as provided in section 302;
(b) “subscribers” means the persons exchanging with each other reciprocal contracts of indemnity or inter-insurance as provided in section 300. R.S.O. 1950, c. 183, s. 274.

300. It is lawful for a person to exchange with other persons in Ontario and elsewhere reciprocal contracts of indemnity or inter-insurance for any class of insurance for which an insurance company may be licensed under this Act, except life insurance, accident insurance, sickness insurance, and guarantee insurance. R.S.O. 1950, c. 183, s. 275.

301. No person shall be deemed to be an insurer within the meaning of this Act by reason of exchanging with other persons reciprocal contracts of indemnity or inter-insurance under this Act. R.S.O. 1950, c. 183, s. 276.

302.-(1) Reciprocal contracts of indemnity or inter-insurance may be executed on behalf of subscribers by any other person acting as attorney under a power of attorney, a copy of which has been duly filed as hereinafter provided.

(2) Notwithstanding any condition or stipulation of any such power of attorney or of any such contract of indemnity or inter-insurance, any action or proceeding in respect of any such contract may be maintained in any court of competent jurisdiction in Ontario. R.S.O. 1950, c. 183, s. 277.
The persons constituting the exchange shall, through their attorney, file with the Superintendent a declaration verified by oath, setting forth,

(a) the name of the attorney and the name or designation under which such contracts are issued, which name or designation must not be so similar to any other name or designation previously adopted by any exchange or by any licensed insurer as in the opinion of the Superintendent to be likely to result in confusion or deception;

(b) the classes of insurance to be effected or exchanged under such contracts;

(c) a copy of the form of the contract, agreement or policy under or by which such reciprocal contracts of indemnity or inter-insurance are to be effected or exchanged;

(d) a copy of the form of power of attorney under which such contracts are to be effected or exchanged;

(e) the location of the office from which such contracts are to be issued;

(f) a financial statement in the form prescribed by the Superintendent;

(g) evidence satisfactory to the Superintendent that it is the practice of the exchange to require its subscribers to maintain in the hands of the attorney, as a condition of membership in the exchange, a premium deposit reasonably sufficient for the risk assumed by the exchange;

(h) evidence satisfactory to the Superintendent that the management of the affairs of the exchange is subject to the supervision of an advisory board or committee of the subscribers in accordance with the terms of the power of attorney. R.S.O. 1950, c. 183, s. 278.

(1) Upon an exchange complying with this Part, the Superintendent may issue a licence in accordance with the form in Schedule C hereto.

(2) Notwithstanding anything in this Act, the Superintendent may, with the approval of the Minister, require an exchange, as a condition of the issue or renewal of its licence, to deposit approved securities with the Minister in such amount and upon such terms and conditions as the Superintendent deems proper. R.S.O. 1950, c. 183, s. 279.
305. A licence shall not be issued to an exchange to effect or exchange contracts of indemnity or inter-insurance,

(a) against loss by fire, until evidence satisfactory to the Superintendent has been filed with him that applications have been made for indemnity upon at least seventy-five separate risks in Ontario or elsewhere aggregating not less than $1,500,000 as represented by executed contracts of bona fide applications to become concurrently effective;

(b) in respect of automobiles, until evidence satisfactory to the Superintendent has been filed with him that applications have been made for indemnity upon at least 500 automobiles as represented by executed contracts or bona fide applications to become concurrently effective, and that arrangements satisfactory to him are in effect for the reinsurance of all liabilities in excess of such limits as he prescribes. R.S.O. 1950, c. 183, s. 280.

306. Where the office from which such contracts are to be issued is not in Ontario, service upon the Superintendent of notice or process in any action or proceeding in Ontario in respect of contract of indemnity or inter-insurance effected by the exchange shall be deemed service upon the subscribers who are members of the exchange at the time of the service. R.S.O. 1950, c. 183, s. 281.

307. There shall be filed with the Superintendent by the attorney, as often as the Superintendent may require, a statement of the attorney under oath showing, in the case of fire insurance, the maximum amount of indemnity upon any single risk and a statement of the attorney verified by oath to the effect that he has examined the commercial rating of the subscribers of the exchange as shown by the reference book of a commercial agency, having at least 500 subscribers, and that from such examination or other information in his possession it appears that no subscriber has assumed on any single fire insurance risk an amount greater than 10 per cent of the net worth of such subscriber. R.S.O. 1950, c. 183, s. 282.

308.—(1) There shall at all times be maintained with such attorney, as a reserve fund, a sum in cash or approved securities equal to 50 per cent of the annual deposits or advance premiums collected or credited to the accounts of subscribers on contracts in force having one year or less to run, and pro rata on those for longer periods.
(2) Except as hereinafter provided, there shall also be maintained as a guarantee fund or surplus an additional sum, in excess of all liabilities, in cash or approved securities amounting to not less than $50,000.

(3) In the case of a fire insurance exchange whose principal office is in Ontario, the guarantee fund or surplus referred to in subsection 2 shall not be less than $25,000.

(4) In the case of an automobile insurance exchange whose principal office is in Ontario, the guarantee fund or surplus referred to in subsection 2 shall, during the first year of operation of the exchange, be maintained at an amount not less than $10,000, and thereafter not less than $25,000.

(5) If at any time the amounts on hand are less than the foregoing requirements, the subscribers or the attorney shall forthwith make up the deficiency.

(6) Where funds, other than those that accrued from premiums or deposits of subscribers, are supplied to make up a deficiency as herein provided for, such funds shall be deposited and held for the benefit of subscribers under such terms and conditions as the Superintendent requires so long as a deficiency exists, and may thereafter be returned to the depositor.

(7) In this section, "approved securities" means securities that are authorized for investment by section 309. R.S.O. 1950, c. 183, s. 283.

309.—(1) If the principal office of the exchange is in Ontario, the surplus insurance funds and the reserve fund of the exchange shall be invested in the class of securities authorized by The Corporations Act for the investment of the reserve funds of a joint stock insurance company incorporated thereunder.

(2) If the principal office of the exchange is outside Ontario, it shall be a condition precedent to the issue of a licence under this Act that evidence satisfactory to the Superintendent is filed with him showing that the class of security in which funds of the exchange are required by law to be invested, and are in fact invested, is within the limits of investment prescribed for the investment of the reserve funds of an insurance corporation by the jurisdiction in which the office of the exchange is situate. R.S.O. 1950, c. 183, s. 284.

310.—(1) No exchange shall undertake any liability on a contract of indemnity, inter-insurance or insurance except on behalf of a subscriber.
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(2) No attorney or exchange shall effect reinsurance of any risks undertaken by the exchange in any licensed reciprocal or inter-insurance exchange unless such exchange operates on the same underwriting standards. R.S.O. 1950, c. 183, s. 285.

311.—(1) No person shall act as attorney, or for or on behalf of an attorney, in the exchange of reciprocal contracts of indemnity or inter-insurance, or in acts or transactions in connection therewith, until a licence has been issued and is in force.

(2) Every person who, in contravention of subsection 1, undertakes or effects or agrees or offers to undertake or effect an exchange of reciprocal contracts of indemnity or inter-insurance, or any act or transaction in connection therewith, is guilty of an offence and on summary conviction is liable to a fine of not less than $50 and not more than $500. R.S.O. 1950, c. 183, s. 286.

312.—(1) Where a licensed exchange or attorney contravenes any provision of this Act, the licence of the exchange may be suspended or revoked by the Minister on the report of the Superintendent after due notice and opportunity for a hearing before the Superintendent has been given to the exchange or its attorney, but the suspension or revocation does not affect the validity of any reciprocal contracts of indemnity or inter-insurance effect ed prior thereto or the rights and obligations of subscribers under such contracts.

(2) Notice of such suspension or revocation shall be given by the Superintendent in at least two successive issues of The Ontario Gazette as soon as reasonably may be after the suspension or revocation. R.S.O. 1950, c. 183, s. 287.

313. The attorney shall, on or before the 1st day of March in each year, pay to the Treasurer of Ontario for the use of Ontario an annual tax equal to 2 per cent of the gross premiums or deposits collected from subscribers in respect of risks located in Ontario during the preceding calendar year after deducting returns for cancellations, considerations for reinsurance with licensed insurers and all amounts returned to subscribers or credited to their accounts as savings during such year. R.S.O. 1950, c. 183, s. 288.

314. Notwithstanding anything in this Act, any person may insure against fire any property situated in Ontario in an exchange not licensed under this Act, and any property so insured or to be insured may be inspected and any loss incurred in respect thereof adjusted, if such insurance is effected outside Ontario and without any solicitation in Ontario directly or indirectly on the part of the insurer. R.S.O. 1950, c. 183, s. 289.
PART XIV

AGENTS, BROKERS AND ADJUSTERS

LICENCES OF INSURANCE AGENTS

315.—(1) The Superintendent may issue to any person who has complied with this Act a licence authorizing such person to carry on business as an insurance agent subject to this Act, to the regulations and to the terms of the licence. R.S.O. 1950, c. 183, s. 290 (1); 1958, c. 42, s. 5 (1).

(2) Licences so issued shall be of two classes, that is,

(a) licences for life insurance, or life and accident insurance, or life and accident and sickness insurance; or

(b) licences for any classes of insurance other than life insurance.

(3) Upon written notice to the Superintendent that a licensed insurer has appointed a person to act as his agent in Ontario and upon due application of such person and payment by him of the prescribed fee, the Superintendent shall, if he is satisfied that the applicant is a suitable person to receive a licence and intends to hold himself out publicly and carry on business in good faith as an insurance agent, issue to the applicant a licence that shall state in substance that the holder is, during the term of the licence, authorized to carry on in Ontario the business of an insurance agent.

(4) Such notice of appointment by an insurer shall be upon a form furnished by the Superintendent and shall state that the appointee has been authorized in writing by the insurer to act as agent in the soliciting of and negotiating for insurance and shall be accompanied by a sworn statement of the appointee on a form furnished by the Superintendent giving the name, age, residence and present occupation of the applicant and his occupation for the five years next preceding the date of the notice and particulars of any other employment in which he is engaged and such other information as the Superintendent requires.

(5) Where the applicant is the appointee of an insurer carrying on in Ontario the business of life insurance, or life and accident insurance, or life and accident and sickness insurance, the licence shall expressly limit the authorization of the agent to the class of insurance for which the insurer is licensed, and, where the applicant is the appointee of an insurer carrying on in Ontario any class or classes of insurance business other than life insurance, the licence shall expressly exclude the business of life insurance, but nothing herein prevents the
issue to the same applicant of two licences including all classes of insurance if due application has been made for two licences.

(6) Where the agency, upon notice of which a licence is issued, is terminated, notice in writing shall forthwith be given by the insurer to the Superintendent of the termination, with the reason therefor, and thereupon the licence is *ipso facto* suspended, but it may be revived subject to the approval of the Superintendent upon filing of notice of a new agency appointment and upon payment of a fee of $1.

(7) An insurer who fails to notify the Superintendent within thirty days of the termination of an agency appointment as required by subsection 6 is guilty of an offence. R.S.O. 1950, c. 183, s. 290 (2-7).

(8) A licence issued under this section or section 316 may be revoked by the Superintendent if, after due investigation and a hearing, he determines that the holder of the licence,

(a) has contravened any provision of this Act or the regulations in his operations as an insurance agent; or

(b) has made a material misstatement in the application for the licence; or

(c) has been guilty of a fraudulent practice; or

(d) has demonstrated his incompetency or untrustworthiness to transact the insurance agency business for which the licence was granted, by reason of anything done or omitted in or about such business under the authority of the licence; or

(e) has employed upon salary or otherwise any person whose application for licence as an insurance agent has been refused or whose licence has been revoked or suspended under this Part without having first obtained the written approval of the Superintendent. R.S.O. 1950, c. 183, s. 290 (8); 1951, c. 39, s. 19 (1); 1958, c. 42, s. 5 (2).

(9) In determining the granting or refusal of an application for a licence or renewal of licence, or the revocation of an existing licence under this section or section 316, the Superintendent may, and shall when so requested in writing by the applicant or licensee, appoint an advisory board consisting of,

(a) a representative of insurers;

(b) a representative of agents; and

(c) a representative of the Superintendent,

which shall hold a hearing and make a report to the Superintendent with such recommendation as it deems fit. R.S.O. 1950, c. 183, s. 290 (9); 1951, c. 39, s. 19 (2).
(10) The representative of the Superintendent upon the advisory board shall act as chairman and, for the purposes of his duties in connection with the investigation and hearing contemplated by subsection 9, has the same powers as are vested in the Superintendent by section 4. R.S.O. 1950, c. 183, s. 290 (10).

(11) A licence issued hereunder expires at such time as the regulations provide unless automatically suspended by notice under subsection 6 or unless revoked or suspended by the Superintendent; but such licence may, in the discretion of the Superintendent, be renewed for a succeeding year upon due application upon a form prescribed by the Superintendent giving such information as he requires, accompanied by a certificate of agency appointment of a licensed insurer and payment of the prescribed fee, without requiring anew the detailed information hereinbefore specified.

(12) The holder of a licence under this section as agent for insurance other than life insurance may, during the term and validity of his licence, act as agent for any licensed insurer within the limits prescribed by his licence, and may act as an insurance broker in dealing with licensed insurers without other or additional licences but may not act as agent or broker directly, or indirectly through a broker licensed for business with unlicensed insurers under section 319 or otherwise, in dealing with unlicensed insurers.

(13) No life insurance agent shall be licensed to act as agent for more than one insurer transacting life insurance, and the name of such insurer shall be specified in the licence, and no such agent shall represent himself to the public by advertisement or otherwise as the agent of more than one such insurer, but where such an agent is unable to negotiate insurance on behalf of an applicant for insurance with the insurer for which he is the authorized agent, such agent has the right to procure such insurance from another insurer if such other insurer obtains in each case the consent in writing of the insurer for which such agent is the authorized agent, and files a copy of such consent with the Superintendent.

(14) A collector of insurance premiums who does not solicit application for or the renewal or continuance of insurance contracts or act or aid in negotiating such contracts or the renewal thereof may carry on such business without a licence therefor if his collection fee does not exceed 5 per cent of any amount collected.

(15) A member of a duly licensed pension fund association, other than a salaried employee who receives commission or a member of a mutual fire, weather or live stock insurance
corporation carrying on business solely on the premium note plan, may, without a licence, solicit persons to become members of such society, association or corporation.

(16) An officer or a salaried employee of the head office of a duly licensed fraternal society who does not receive commission may, without a licence, solicit insurance contracts on behalf of the society.

(17) Any member not an officer or salaried employee described in subsection 16 may, without a licence, solicit insurance contracts on behalf of the society unless he devotes or intends to devote more than one-half of his time to soliciting such contracts or has in the previous licence year solicited and procured life insurance contracts on behalf of the society in an amount in excess of $20,000. R.S.O. 1950, c. 183, s. 290 (12-18).

(18) Unless the Superintendent otherwise directs, an officer or salaried employee of a licensed insurer who does not receive commissions, or an attorney or salaried employee of a reciprocal or inter-insurance exchange at which no commission is paid except to such attorney, may, without a licence, act for such insurer or exchange in the negotiation of any contracts of insurance or in the negotiation of the continuance or renewal of any contracts that the insurer or exchange may lawfully undertake, but officers or employees whose applications for licences as insurance agents or salesmen have been refused or whose licences have been revoked or suspended may not so act without the written approval of the Superintendent, and, in the cases of insurers authorized to undertake life insurance, only the officers and salaried employees of the head office who do not receive commissions may so act without a licence. 1951, c. 39, s. 19 (3).

(19) Notwithstanding anything in this Act, the Superintendent may issue a licence to a transportation company authorizing it, by its employees in the province, to act as an agent for a licensed insurer with respect to accident insurance and such other classes of insurance as he approves. R.S.O. 1950, c. 183, s. 290 (20).

(20) The Lieutenant Governor in Council may make regulations,

(a) prescribing requirements, qualifications and conditions for the granting or renewal of licences;

(b) providing for the holding of examinations for applicants for licences or renewals of licences;

(c) classifying applicants for licences and restricting or prohibiting the licensing of any class of applicant;
 prejudice the grounds upon which a licence may be revoked, suspended or not renewed;

(e) regulating the method of handling premiums collected and requiring and regulating accounts and records to be maintained by agents;

(f) requiring agents to supply information and make returns to the Superintendent;

(g) requiring an agent to furnish a bond or other security and fixing the amount, form, requirements and terms thereof;

(h) prescribing forms and providing for their use; and

(i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this section.

(21) Regulations made under subsection 20 are in addition to the provisions of this section notwithstanding that the regulations concern a matter provided for in this section. 1958, c. 42, s. 5 (4).

(22) Every person who assumes to act as an agent without the licence required by this section, or while his licence as such is suspended, is guilty of an offence. R.S.O. 1950, c. 183, s. 290 (22).

LICENCES OF INSURANCE SALESMEN

316.—(1) The Superintendent may issue to any person who has complied with this Act a licence authorizing such person to act as a salesman on behalf of a licensed insurance agent or broker in negotiating contracts of insurance or in the negotiation of the continuance or renewal of any contracts such agent or broker may lawfully undertake.

(2) Licences so issued shall be for any classes of insurance, other than life insurance.

(3) Upon written notice to the Superintendent that a licensed agent or broker has appointed a person as a salesman to act on his behalf, and upon due application of such person and payment by him of a fee of $10, the Superintendent shall, if he is satisfied that the applicant is a suitable person to receive a licence, and has not been refused a licence as an insurance agent or broker, or had such a licence suspended or revoked, issue to the applicant a licence stating in substance that the holder is, during the term of the licence, authorized to act in Ontario as a salesman of such agent or broker.
(4) Such notice of appointment by a licensed agent or broker, other than a life insurance agent, shall be upon a form furnished by the Superintendent and shall state that the appointee has been authorized in writing by the agent or broker to act as a salesman in the soliciting of and negotiating for insurance and shall be accompanied by a sworn statement of the appointee on a form furnished by the Superintendent giving his name, age, residence, the amount of monthly salary he is to receive for such employment, his present occupation and occupation for the five years next preceding the date of notice, particulars of any other employment in which he is engaged, and such other information as the Superintendent requires.

(5) The licence shall expressly exclude the business of life insurance, but nothing herein prevents the issuance to the same applicant of a licence as a life insurance agent, if due application is made upon written notice of appointment by a licensed insurer.

(6) Where a licensed salesman ceases to be employed by the appointing agent or broker, notice in writing shall forthwith be given by the agent or broker to the Superintendent of such termination of employment with the reason therefor, and thereupon the licence is ipso facto suspended, but such licence may be revived subject to the approval of the Superintendent upon filing a notice of the salesman's appointment by another agent or broker, and upon payment of a fee of $1.

(7) An agent or broker who fails to notify the Superintendent within thirty days of the termination of a salesman's appointment as required by subsection 6 is guilty of an offence.

(8) A licence issued under this section expires on the 30th day of September next after its issue unless automatically suspended by notice under subsection 6 or unless revoked or suspended by the Superintendent, but such licence may, in the discretion of the Superintendent, be renewed for a succeeding year upon due application upon a form prescribed by the Superintendent giving such information as he requires, accompanied by a certificate of a licensed agent or broker respecting the salesman's appointment, and payment of a fee of $10, without requiring anew the detailed information hereinbefore specified.

(9) The holder of a licence issued under this section may, during the term and validity of his licence, act as salesman only for the agent or broker by whom he is appointed and within the limits of such agent's or broker's licence for classes of insurance other than life insurance.
(10) Every person who assumes to act as a salesman of an insurance agent or broker without the licence required by this section, or while his licence as such is suspended, is guilty of an offence. 1951, c. 39, s. 20.

LICENCES OF INSURANCE BROKERS

317.—(1) The Superintendent may, upon the payment of the prescribed fee, issue to any suitable person resident in Canada a licence to act in Ontario as an insurance broker to negotiate, continue or renew contracts of insurance, other than life insurance, or to place risks or effect insurance with any duly licensed insurer or its agent.

(2) The applicant for such a licence shall file with the Superintendent a written application under oath upon a form provided by the Superintendent in which the applicant shall state his name, age, residence and occupation at the time of making the application, his occupation for the five years next preceding the date of the application and such other information as the Superintendent requires, and the applicant shall declare that he intends to hold himself out publicly and carry on business in good faith as an insurance broker and he shall furnish a statement as to his trustworthiness and competency signed by at least three reputable persons resident in Ontario.

(3) If the Superintendent is satisfied with the statement and information required by subsection 2, he shall issue the licence applied for, and the licence expires on the 30th day of September in each year unless sooner revoked or suspended.

(4) The licence may, in the discretion of the Superintendent, be renewed upon payment of the prescribed fee for each succeeding year without requiring anew the detailed information hereinbefore specified.

(5) The Superintendent may, for cause shown and after a hearing, revoke the licence, or may suspend it for a period not exceeding the unexpired term thereof, and may, for cause shown and, after a hearing, revoke the licence while so suspended, and shall notify the licensee in writing of such revocation or suspension and may publish a notice of such revocation or suspension in such manner as he deems necessary for the protection of the public.

(6) Any person, other than a licensed agent, who assumes to act as an insurance broker without a licence or during a suspension of his licence is guilty of an offence.

(7) Subject to section 320, a broker shall not be presumed to be the agent of the insurer or the agent of the insured by
reason of the issue to him of a licence under this section. R.S.O. 1950, c. 183, s. 291.

318. In addition to issuing insurance brokers' licences giving full authority to the licensee as set forth in the preceding sections, the Superintendent may issue insurance brokers' licences limiting the authority of the licensee to the extent agreed upon with the applicant and set forth in the licence, but in other respects the granting of such licences and the brokers so licensed are subject to this Act. R.S.O. 1950, c. 183, s. 292.

BROKERS' LICENCES FOR BUSINESS WITH UNLICENSED INSURERS

319.—(1) The Superintendent may, upon the payment of the prescribed fee, issue to any suitable person resident in Ontario a licence to act as a special insurance broker to negotiate, continue or renew contracts of insurance in Ontario, other than contracts of life insurance, with insurers not authorized to transact such business in Ontario. R.S.O. 1950, c. 183, s. 293 (1); 1953, c. 48, s. 6 (1).

(2) The applicant for such a licence shall file with the Superintendent a written application under oath as prescribed by section 317.

(3) If the Superintendent is satisfied with the statements and information required, he shall issue the licence applied for subject to suspension or revocation in the discretion of the Superintendent, which licence expires on the 30th day of June in each year unless sooner suspended or revoked.

(4) The licence may, in the discretion of the Superintendent, be renewed for each succeeding year upon payment of the prescribed fee without requiring anew the detailed information specified by section 317.

(5) A person shall, before receiving such licence, execute and deliver to the Superintendent security to the satisfaction of the Superintendent in the sum of not less than $5,000 that the licensee will faithfully comply with this Act. R.S.O. 1950, c. 183, s. 293 (2-5).

(6) Where sufficient insurance in Ontario cannot be obtained at reasonable rates or on the form of contract required by the insured from insurers licensed to do business in Ontario, the person named in such licence may effect insurance with unlicensed insurers, but shall in the case of every insurance effected under this section obtain from the insured a signed and dated statement describing the risk to be insured and the amount of insurance required and stating that the insurance
cannot be obtained in licensed companies and that the application for such insurance at the stated rate of premium was previously made to and refused by named companies licensed in Ontario, and the person named in such licence shall, within ten days after the placing of such insurance with unlicensed insurers, submit to the Superintendent a statement setting forth the name of the insured, a description of the risk insured, the full names of the unlicensed insurers, and the amount of insurance placed with each and the rate and amount of premium paid to each. R.S.O. 1950, c. 183, s. 293 (6); 1953, c. 48, s. 6 (2).

(7) Such a licensee shall keep a separate account of insurance effected by him under his licence in books in the form prescribed by the Superintendent, which shall be open to inspection by the Superintendent or any officer of the Department.

(8) Within ten days after the end of each month, every such licensee shall make to the Superintendent a return under oath in the form and manner by him prescribed, containing particulars of all insurances effected under this section by the licensee during such month.

(9) In respect of all premiums on insurance effected under a licence, the licensee shall pay to the Department such taxes as would be payable if such premiums had been received by a licensed insurer, and payment thereof shall accompany the monthly return provided for in subsection 8.

(10) On it being shown to the satisfaction of the Minister that all insurances effected under this section are no longer in force or have been reinsured, the licensee is entitled to a release or cancellation of his security.

(11) A licensee under this section shall accept applications for insurance with unlicensed insurers only from the insured or another licensee under this section and shall not receive any such application from, or pay or allow compensation or anything of value in respect of such applications to, an agent or broker not licensed under this section, and any contract of insurance with an unlicensed insurer made by or through any agent or broker not licensed under this section shall be deemed to be unlawfully made within the meaning of section 322.

(12) A person licensed under this section who contravenes any of its provisions is guilty of an offence and, in addition to any other penalty, shall forfeit his licence. R.S.O. 1950, c. 183, 293 (7-12).

PROVISIONS RELATING TO AGENTS AND BROKERS GENERALLY

320.—(1) An agent or broker shall, for the purpose of receiving any premium for a contract of insurance, be deemed
to be the agent of the insurer notwithstanding any conditions or stipulations to the contrary.

(2) This section does not apply to life insurance. R.S.O. 1950, c. 183, s. 294.

321. An agent or broker who knowingly procures, by fraudulent representations, payment or the obligation for payment of any premium on an insurance policy is guilty of an offence. R.S.O. 1950, c. 183, s. 295.

322. An agent or broker is personally liable to the insured on all contracts of insurance unlawfully made by or through him directly or indirectly with any insurer not licensed to undertake insurance in Ontario in the same manner as if such agent or broker were the insurer. R.S.O. 1950, c. 183, s. 296.

LICENCES OF INSURANCE ADJUSTERS

323.—(1) The Superintendent may, upon the payment of the prescribed fee, issue to any suitable person a licence to act as an adjuster, but a person licensed as an insurance agent or broker under this Part shall not receive a licence to act as an insurance adjuster.

(2) The applicant for such licence shall file with the Superintendent a written application under oath upon a form provided by the Superintendent in which the applicant shall state his name, age, residence and occupation for the five years next preceding the date of the application and such other information as the Superintendent requires, and the applicant shall furnish a statement as to his trustworthiness and competency signed by at least three reputable persons resident in Ontario.

(3) If the Superintendent is satisfied with the statements and information required, he shall issue the licence, which expires on the 30th day of June in each year unless sooner revoked or suspended.

(4) A licence may, in the discretion of the Superintendent and upon payment of the prescribed fee, be renewed for each succeeding year without requiring anew the detailed information hereinbefore specified.

(5) The Superintendent may, for cause shown and after a hearing, revoke the licence, or may suspend it for a period not exceeding the unexpired term thereof, and may, for cause shown and after a hearing, revoke the licence while so suspended, and shall notify the licensee in writing of the revocation or suspension.
(6) The provisions of subsections 8, 9 and 10 of section 315, with reference to grounds of revocation of licence, to the appointment of an advisory board and to the power of the chairman thereof in the matter of insurance agents' licences, apply {\it mutatis mutandis} to applicants and licensees under this section, except that a representative of adjusters shall replace a representative of agents on the board.

(7) A person who acts as an adjuster without such a licence or during a suspension of his licence is guilty of an offence.

R.S.O. 1950, c. 183, s. 297.

324.—(1) Subject to subsection 2, no person shall, on behalf of himself or another person, directly or indirectly,

(a) solicit the right to negotiate, or negotiate or attempt to negotiate, for compensation, the settlement of a claim for loss or damage arising out of a motor vehicle accident resulting from bodily injury to or death of any person or damage to property on behalf of a claimant;

(b) hold himself out as an adjuster, investigator, consultant or otherwise as an adviser, on behalf of any person having a claim against an insured for which indemnity is provided by a motor vehicle liability policy.

(2) This section does not apply to a barrister or solicitor acting in the usual course of his profession. R.S.O. 1950, c. 183, s. 298.

PARTNERSHIP LICENCES OF AGENTS, BROKERS AND ADJUSTERS

325.—(1) Licences as agents, brokers or adjusters may be issued to partnerships on the conditions hereinbefore specified for the issue of such licences to individuals except as otherwise provided in this section.

(2) Each member of the partnership shall file the statement or application and pay the prescribed fee, including a written request that the licence be issued in the name of the partnership, and the licence may be revoked or suspended as to one or more members of the partnership.

(3) If the partnership is terminated before the expiration of the licence, the partners shall forthwith give notice to the Superintendent, who shall thereupon revoke the licence.

(4) A member of a partnership licensed under this section who contravenes any of its provisions is guilty of an offence. R.S.O. 1950, c. 183, s. 299.
CORPORATION LICENCES OF AGENTS, BROKERS AND ADJUSTERS

326.—(1) Licences as agents, brokers or adjusters may be issued to any corporation that is incorporated expressly for the purpose of acting as an insurance agent, broker or adjuster or for that and other purposes.

(2) Licences as agents or brokers shall not be issued to a corporation whose head office is outside Canada or if it appears to the Superintendent that the application is made for the purpose of acting as agent or broker wholly or chiefly in the insurance of property owned by the corporation or by its shareholders or members, or in the placing of insurance for one person, firm, corporation, estate or family.

(3) Except as otherwise provided in this section, such licences, and the corporation and officers of the corporation named in the licence, are subject to the provisions of this Act with respect to agents, brokers and adjusters. R.S.O. 1950, c. 183, s. 300 (1-3).

(4) The licence shall specify the officers who may act thereunder in the name and on behalf of the corporation and every such officer shall file a statement or application and pay the prescribed fee for individual agents, brokers or adjusters, but employees who do not receive commissions and who perform office duties only on behalf of the corporation may so act by authority of the corporation licence although not named therein. R.S.O. 1950, c. 183, s. 300 (4); 1951, c. 39, s. 21.

(5) A licence may be revoked or suspended as to the corporation or as to any officers named therein.

(6) If the principal business of a corporation licensed under this section is not the business of an insurance agent or broker or adjuster, the Superintendent may require from such a corporation such information as he deems necessary in respect to the corporation, its officers and affairs and may make such examination of its books and affairs as he deems necessary for the purposes of this Act.

(7) A corporation licensed under this section shall forthwith notify the Superintendent in writing of its dissolution or the revocation of its instrument of incorporation and upon receipt of such notice the Superintendent shall forthwith revoke the licence.

(8) An officer specified in the licence who contravenes any of the provisions of this section is guilty of an offence and is personally liable therefor, although such contravention is committed in the name and on behalf of the corporation, and the
corporation is liable for any such contravention the responsibility for which cannot be placed upon any such officer. R.S.O. 1950, c. 183, s. 300 (5-8).

PROVISIONS RELATING TO AGENTS, BROKERS AND ADJUSTERS

327. A person who, not being duly licensed as an agent, broker or adjuster, represents or holds himself out to the public as being such an agent, broker or adjuster, or as being engaged in the insurance business by means of advertisements, cards, circulars, letterheads, signs, or other methods, or, being duly licensed as such agent, broker or adjuster, advertises as aforesaid or carries on such business in any other name than that stated in the licence, is guilty of an offence. R.S.O. 1950, c. 183, s. 301.

328. An agent or broker who acts in negotiating, or renewing or continuing a contract of insurance, other than life insurance, with a licensed insurer, and who receives any money or substitute for money as a premium for such a contract from the insured, shall be deemed to hold such premium in trust for the insurer, and, if he fails to pay the premium over to the insurer within fifteen days after written demand made upon him therefor, less his commission and any deductions to which, by the written consent of the company, he is entitled, such failure is prima facie evidence that he has used or applied the premium for a purpose other than paying it over to the insurer, and that he is guilty of an offence. R.S.O. 1950, c. 183, s. 302.

329.—(1) No insurer, and no officer, employee or agent thereof, and no broker, shall directly or indirectly pay or allow, or agree to pay or allow, compensation or anything of value to any person for placing or negotiating insurance on lives, property or interests in Ontario, or negotiating the continuance or renewal thereof, or for attempting so to do, who, at the date thereof, is not a duly licensed insurance agent or broker or a person acting under subsections 15 and 18 of section 315 and whoever knowingly contravenes this subsection is guilty of an offence.

(2) No insurer, and no officer, employee or agent thereof, and no broker, shall directly or indirectly make or attempt to make an agreement as to the premium to be paid for a policy other than as set forth in the policy, or pay, allow or give, or offer or agree to pay, allow or give, a rebate of the whole or part of the premium stipulated by the policy, or any other consideration or thing of value intended to be in the
nature of a rebate of premium, to any person insured or applying for insurance in respect of life, person or property in Ontario, and an insurer or other person who contravenes this subsection is guilty of an offence.

(3) Nothing in this section affects any payment by way of dividend, bonus, profit or savings that is provided for by the policy, or be construed so as to prevent an insurer compensating a bona fide salaried employee of its head or branch office in respect of insurance issued by the employing insurer upon the life of such employee or so as to require that such employee shall be licensed as an agent for life insurance under this Act to effect such insurance. R.S.O. 1950, c. 183, s. 303.

330. A person licensed as an agent for life insurance under this Act who induces, directly or indirectly, an insured to lapse, forfeit or surrender for cash, or for paid up or extended insurance, or for other valuable consideration, his contract of life insurance with one insurer in order to effect a contract of life insurance with another insurer, or makes a false or misleading statement or representation in the solicitation or negotiation of insurance, or coerces or proposes, directly or indirectly, to coerce a prospective buyer of life insurance through the influence of a business or a professional relationship or otherwise, to give a preference in respect to the placing of life insurance that would not be otherwise given in the effecting of a life insurance contract, is guilty of an offence. R.S.O. 1950, c. 183, s. 304.

331. Every licensed insurer shall make a return under oath to the Superintendent in such form and at such times as he requires showing all persons, partnerships and corporations duly authorized as its agents in Ontario, and of persons, partnerships or corporations to whom it has, within such period as the form of return requires, paid or allowed or agreed to pay or allow, directly or indirectly, compensation for placing or negotiating insurance on lives, property or interests in Ontario, or negotiating the continuance or renewal thereof, or for attempting to do so. R.S.O. 1950, c. 183, s. 305.

332. If the Superintendent refuses, suspends or revokes a licence applied for by or issued to a broker or adjuster, the Superintendent shall state in writing his reasons therefor and any person who deems himself aggrieved by the decision of the Superintendent may appeal therefrom to the Minister and, in case of an appeal, the decision of the Superintendent does not take effect until after the hearing and disposition thereof by the Minister. R.S.O. 1950, c. 183, s. 306.
A licence may be issued to an agent or adjuster subject to such limitations and conditions as the Superintendent prescribes. R.S.O. 1950, c. 183, s. 307.

PART XV

RATES AND RATING BUREAUX

334. In this Part, "rating bureau" means an association or body, incorporated or unincorporated, created or organized for the purpose of fixing or promulgating rates of premium payable upon contracts of insurance in Ontario, or the terms or conditions of such contracts, or for these and other purposes, or that assumes to fix or promulgate such rates, terms or conditions by agreement among the members thereof or otherwise. R.S.O. 1950, c. 183, s. 308.

335.—(1) A rating bureau shall, forthwith after adoption, file in the office of the Superintendent duly certified copies of its constitution, articles of association and by-laws, and a list of its members and their addresses, and thereafter shall file in the office of the Superintendent every amendment, revision or consolidation of its constitution, articles of association and by-laws, and notice of the admission of new members and the withdrawal of former members, within thirty days after the passing or adoption of such amendment, revision or consolidation, or after the admission or withdrawal of such members.

(2) A rating bureau and a licensed insurer shall make a return under oath to the Superintendent in such form and at such times as he requires, showing every schedule of rates fixed, made or charged by them, together with such further or other information concerning such rates as he requires.

(3) A rating bureau and a licensed insurer shall give to the Superintendent at least ten days notice of any change in the schedules of rates or rules applicable thereto filed with the Superintendent under subsection 2, and shall file with the Superintendent amended schedules duly verified under oath showing particulars of all such changes before their effective date.

(4) A rating bureau or licensed insurer that, having filed its schedules of rates under this section, fixes, makes or charges a rate or receives a premium that deviates from the schedules of rates fixed and filed with the Superintendent for, and the rules applicable to, any risk or class of risks is guilty of an offence. R.S.O. 1950, c. 183, s. 309.
336.—(1) No rating bureau and no insurer authorized to transact the business of insurance in Ontario shall fix or make a rate or schedule of rates or charge a rate for automobile insurance to a group of persons by reason of such group being engaged in a trade, calling, profession or occupation, or by reason of membership in a guild, union, society, club or association or by reason of common employment or by reason of common occupancy of the same building or group of buildings or for any other reason that would result in a lower cost to an individual in such group than such individual would have had to pay if insured individually, and an insurer or other person who contravenes this section is guilty of an offence.

(2) Nothing in this section shall be deemed to prohibit the fixing or charging of a special rate for the insurance of two or more motor vehicles owned by and registered in the name of the same person. R.S.O. 1950, c. 183, s. 310.

337.—(1) No rating bureau and no insurer authorized to transact the business of insurance in Ontario shall fix or make a rate or schedule of rates or charge a rate that discriminates unfairly between risks in Ontario of essentially the same physical hazards in the same territorial classification, or, if the rate is a fire insurance rate, that discriminates unfairly between risks in the application of like charges or credits or that discriminates unfairly between risks of essentially the same physical hazards in the same territorial classification and having substantially the same degree of protection against fire. R.S.O. 1950, c. 183, s. 311 (1).

(2) This section does not come into force until a day to be named by the Lieutenant Governor by his proclamation. R.S.O. 1950, c. 183, s. 311 (2), part, amended.

338.—(1) The Superintendent may, on written complaint by an insurer or an insured that discrimination exists or upon such information filed with him as the Superintendent deems sufficient to justify an investigation, give notice in writing to a rating bureau or insurer, requiring such rating bureau or insurer to file with the Superintendent any schedules of rates or particulars showing how any specific rate is made up and any other information that he requires.

(2) Such rating bureau or insurer shall, within five days after the receipt of the notice, file with the Superintendent the schedules, particulars and other information required.

(3) The Superintendent may, within thirty days after the receipt of the information required, make an order prohibiting any rate that, in his opinion, contravenes section 337 and directing that the discrimination be removed.
(4) The Superintendent shall forthwith deliver to the rating bureau or insurer a copy of such order and reasons therefor and shall cause notice thereof to be published forthwith in *The Ontario Gazette*.

(5) No rating bureau or insurer shall remove such discrimination by increasing the rates on any risk or class of risks affected by such order unless it be made to appear to the satisfaction of the Superintendent that such increase is justifiable.

(6) A rating bureau, insurer or other person failing to comply with such order is guilty of an offence.

(7) An order made under this section does not take effect for a period of ten days after its date and is subject to appeal within that time in the manner provided by section 12 and, in the event of an appeal, the order of the Superintendent does not take effect pending the disposition of the appeal. R.S.O. 1950, c. 183, s. 312.

(8) This section does not come into force until a day to be named by the Lieutenant Governor by his proclamation. R.S.O. 1950, c. 183, s. 311 (2), part, amended.

339.—(1) It is the duty of the Superintendent, after due notice and a hearing before him, to order an adjustment of the rates for automobile insurance whenever it is found by him that any such rates are excessive, inadequate, unfairly discriminatory, or otherwise unreasonable.

(2) An order made under this section does not take effect for a period of ten days after its date, and is subject to appeal within that time by any insured, insurer or rating bureau, in the manner provided by section 12 and, in the event of an appeal, the order of the Superintendent does not take effect pending the disposition of the appeal.

(3) The Attorney General shall be served with notice of any such appeal and is entitled to be heard by counsel upon the hearing thereof.

(4) A rating bureau, insurer or other person failing to comply with such order is guilty of an offence.

(5) This section does not come into force until a day to be named by the Lieutenant Governor by his proclamation. R.S.O. 1950, c. 183, s. 313.

340. The Superintendent or any person authorized under his hand and seal of office shall at all times have access to all such books, securities or documents of a rating bureau or
insurer as are related to the schedules of rates of the rating bureau or insurer, and any officer or person in charge, possession, custody or control of such books, securities or documents who refuses or neglects to afford such access is guilty of an offence. R.S.O. 1950, c. 183, s. 314.

341.—(1) The Superintendent may inquire into any question that an insurer, insured or a rating bureau may bring before him with regard to insurance rates fixed by a rating bureau or charged by an insurer and also with regard to any other question arising out of the relationship or proposed relationship of the parties with reference to the insurance in question.

(2) The Superintendent shall not make an order pursuant to an inquiry under this section, but the result of the inquiry shall be reported in his annual report. R.S.O. 1950, c. 183, s. 315.

PART XVI

AMALGAMATION, TRANSFER AND REINSURANCE

342. In this Part, "reinsurance" means an agreement whereby contracts made in Ontario by a licensed insurer or any class or group thereof are undertaken or reinsured by another insurer either by novation, transfer, assignment or as a result of amalgamation of the insurers. R.S.O. 1950, c. 183, s. 316.

343.—(1) Nothing in this Part affects contracts of reinsurance of individual risks made by insurers in the ordinary course of business.

(2) In the case of the amalgamation of insurers, if one of the contracting insurers is an insurer not incorporated or organized under the law of Ontario, the Superintendent shall not recommend that the agreement be approved by the Lieutenant Governor in Council as hereinafter provided until it has been established to his satisfaction that the insurers party to the agreement have fully complied with the requirements of the law of the legislative authority under which the insurer was incorporated or organized, but a certificate of the supervising insurance official appointed by such legislative authority that such insurer has fully complied with the requirements of the law of the authority is sufficient evidence to the Superintendent of that fact. R.S.O. 1950, c. 183, s. 317.
344. — (1) An agreement for reinsurance shall be evidenced by an instrument in writing setting forth in full the terms and conditions of such reinsurance, but no such agreement shall be entered into unless and until the permission of the Superintendent has been obtained, and the agreement is not binding or effective until approved by the Lieutenant Governor in Council upon the report of the Superintendent.

(2) Upon the approval of the Lieutenant Governor in Council, such agreement is valid and binding notwithstanding any irregularity in procedure or any failure to comply with the procedural provisions of this Part. R.S.O. 1950, c. 183, s. 318.

345. When any such agreement for reinsurance has been entered into, the insurers party thereto shall within thirty days from the date of its execution apply for its approval to the Lieutenant Governor in Council by petition filed with the Superintendent. R.S.O. 1950, c. 183, s. 319.

346. — (1) In the case of life insurance, before any such application is made, notice thereof together with,

(a) a statement of the nature and terms of the agreement for reinsurance;

(b) an abstract containing the material facts embodied in the agreement under which such reinsurance is proposed to be effected; and

(c) copies of the actuarial or other reports upon which the agreement is founded, including a report by an independent actuary approved by the Superintendent,

shall be served on the shareholders or members and on the holders of all policies in Ontario, other than industrial policies of each insurer, but the Superintendent may dispense with the service of such documents on the policyholders of the reinsuring insurer.

(2) Such notice and documents shall be served by being transmitted through the post office directed to the registered or other known address of each such shareholder, member and policyholder and within such period that they may be delivered in the due course of delivery at least thirty days before the day appointed for the hearing of the application.

(3) Where a fraternal society is a party to an agreement for reinsurance, such notice and documents shall be deemed to be served on the members of the fraternal society if published in the official organ or publication, if any, of such society at least thirty days before the day appointed for the hearing of the application.
(4) The agreement under which the reinsurance is proposed to be effected shall be open to the inspection of the policyholders and shareholders at the principal offices of the insurers in Ontario for a period of thirty days after the issue of the abstract herein provided for.

(5) A copy of such notice shall also be published in The Ontario Gazette at least thirty days before the application is made. R.S.O. 1950, c. 183, s. 320.

347. In the case of fraternal societies, any such agreement for reinsurance may provide for granting out of the funds of the continuing society to the officer who has been in the service of a society party to such agreement for at least twenty years, and who is more than sixty years of age, and whose services will not be required after the agreement becomes effective, a sum not exceeding the aggregate of his salary or other remuneration for the next preceding three years or, in the alternative, an annual retiring allowance to any such officer during the remaining years of his life not exceeding three-fifths of his average annual salary for the next preceding three years of his service and payable weekly, semi-monthly or otherwise as is agreed upon. R.S.O. 1950, c. 183, s. 321.

348. Upon the filing of the petition, the insurers party to the agreement shall deposit with the Superintendent,

(a) a certified copy of the agreement for reinsurance;

(b) a statement of the nature and terms of reinsurance;

(c) certified copies of the statements of assets and liabilities of the insurers party to the agreement;

(d) certified copies of the actuarial or other reports upon which the agreement is founded;

(e) a declaration under the hands of the president or principal officer and manager or secretary of each insurer that to the best of their knowledge and belief every payment made or to be made to any person whatsoever on account of the reinsurance is therein fully set forth and that no other payments beyond those set forth have been made or are to be made either in money, policies, bonds, valuable securities or other property by or with the knowledge of any of the parties to the reinsurance;

(f) evidence of the service and publication of the notices required by section 346, if any;

(g) such other information and reports as the Superintendent requires. R.S.O. 1950, c. 183, s. 322.
349. Upon receipt of the petition, the Superintendent shall fix a day for hearing the application and notice of the hearing shall be given in *The Ontario Gazette* at least ten days before the date fixed for the hearing. R.S.O. 1950, c. 183, s. 323.

350. After hearing the directors, shareholders, members and policyholders and other persons whom he considers entitled to be heard upon the application or giving them an opportunity to be so heard, the Superintendent may recommend that the agreement be approved by the Lieutenant Governor in Council if he is satisfied that no sufficient objection to the arrangement has been established. R.S.O. 1950, c. 183, s. 324.

351. No such agreement shall be recommended if it appears to the Superintendent that, after the consummation of the reinsurance, an impairment or deficiency will exist in the balance sheet of the continuing or reinsuring insurer when its liabilities (including its capital stock, if any) are calculated according to this Act. R.S.O. 1950, c. 183, s. 325.

352.—(1) If, in the case of a fraternal society, it appears to the Superintendent from the statement and reports filed with him, or from any examination or inquiry made under this Act, that, owing to depletion in membership or otherwise, the reinsurance of its contracts would be in the best interests of its members, he shall so advise the society and request that the advisability of entering into an agreement for reinsurance be considered.

(2) Where, in the opinion of the governing executive authority of the society, a special meeting of the society is desirable for the purpose of considering the request of the Superintendent, the governing executive authority may call a special meeting of the supreme legislative body of the society upon such notice as the governing executive authority deems reasonable and as the Superintendent approves, and such meeting so called shall be deemed to have been regularly constituted notwithstanding any provisions contained in the constitution and laws of the society. R.S.O. 1950, c. 183, s. 326.

SCHEDULE A
*(Section 88)*

**INSURERS**
*(Section 29)*

1. Licences and annual renewals thereof:

   (1) Mutual benefit societies,

   (a) having fewer than 300 members.......................... $ 10
   (b) having 300 members or over............................... 20
(2) Pension fund associations........................................... $100

(3) Fraternal societies,
   (a) where the assets of the society do not exceed $100,000........ 50
   (b) where the assets of the society exceed $100,000 but do not exceed $500,000....................... 100
   (c) where the assets of the society exceed $500,000 but do not exceed $1,000,000............... 150
   (d) where the assets of the society exceed $1,000,000 but do not exceed $10,000,000........ 200
   (e) where the assets of the society exceed $10,000,000...... 250
   but the fee shall not exceed $150 if the premium income, including dues, in Ontario does not exceed $50,000 as shown in the last annual statement of the society required to be filed with the Superintendent under section 76.

(4) Reciprocal or inter-insurance exchanges....................... 200

(5) Mutual insurance corporations without guarantee capital stock, incorporated for the purpose of undertaking contracts of fire insurance upon agricultural property, weather insurance or live stock insurance, on the premium note plan,
   (a) where the gross amount at risk does not exceed $1,000,000............................ $ 25
   (b) where the gross amount at risk exceeds $1,000,000 but does not exceed $5,000,000............. 50
   (c) where the gross amount at risk exceeds $5,000,000 but does not exceed $10,000,000......... 75
   (d) where the gross amount at risk exceeds $10,000,000 but does not exceed $20,000,000........ 100
   (e) where the gross amount at risk exceeds $20,000,000 but does not exceed $30,000,000........ 150
   (f) where the gross amount at risk exceeds $30,000,000 but does not exceed $40,000,000......... 200
   (g) where the gross amount at risk exceeds $40,000,000 but does not exceed $50,000,000........ 250
   (h) where the gross amount at risk exceeds $50,000,000.... 300

   Note.—“gross amount at risk” means gross amount at risk in Ontario as at the 31st December next preceding the application for licence or renewal thereof.

(6) The Non-Marine Underwriters Members of Lloyd’s, London........................................... 500

(7) Insurers authorized to transact live stock insurance exclusively.......................... 100

(8) Insurers undertaking reinsurance exclusively.......................... 100

(9) Insurers not included within sub-items 1 to 8,
   (a) where the assets of the insurers do not exceed $500,000........ 200
   (b) where the assets of the insurers exceed $500,000 but do not exceed $1,000,000........... 250
   (c) where the assets of the insurers exceed $1,000,000 but do not exceed $5,000,000........ 300
   (d) where the assets of the insurers exceed $5,000,000 but do not exceed $10,000,000........ 400
   (e) where the assets of the insurers exceed $10,000,000 but do not exceed $20,000,000....... 450
(f) where the assets of the insurers exceed $20,000,000...

but the fee shall not exceed $500 if the net premiums written in Ontario, including considerations for annuities, do not exceed $50,000 as shown in the last annual statement of the insurer required to be filed with the Superintendent under section 76.

Note.—The assets of a Fraternal Society and of an insurer as used in this item means, if its head office is in Canada, the total gross assets of the insurer wherever situate, as exhibited by the balance sheet of the insurer at the end of the last preceding accounting period of the insurer, and as issued to the public in Canada, or, if its head office is not in Canada, the equivalent in Canadian currency at the current rate of exchange of its total assets exhibited by the head office balance sheet in the currency of the country where its head office is situate.

2. Renewal of licence of insurers that have discontinued undertaking or renewing insurance contracts in the Province, except mutual benefit societies and insurers renewing life insurance policies.

3. Examining and passing upon applications for initial licence (section 23):

   (1) Mutual benefit societies.
   (2) All others.

4. Amendment of licence.

5. Order in Council withdrawing or transferring deposit (sections 45 and 73).

6. Substitution of securities on deposit (except matured securities) calculated on the par value of securities withdrawn (section 43):

   Under $10,000.
   $10,000 and under $25,000.
   $25,000 and over.

7. Filing annual statements (section 76).

8. Extension of time not exceeding seven days or any renewal thereof not exceeding seven days, for filing annual statement, applications for renewal of licence, or any other document or information required under this Act, but the Superintendent may grant relief from the payment of this fee in any case in which he thinks, for reasons appearing to him to be sufficient, that it should not be imposed.

9. Licences and renewals thereof to issue contracts of insurance through an underwriters agency, term to expire on the 30th day of June in each year (section 82).

10. Order in Council authorizing bonds for Court purposes (section 19).

11. Order in Council authorizing society to hold land (section 79).

AGENTS, BROKERS AND ADJUSTERS

(Sections 816, 817, 819 and 325)

12. Licence for life insurance or life and accident insurance or life and accident and sickness insurance.

   (a) where the applicant is a resident of Ontario.
   (b) where the applicant is not a resident of Ontario.
13. Licences for any class of insurance, other than life insurance and renewals thereof.

(a) where the applicant carries on business in a municipality having a population in excess of 10,000 according to the last revised assessment roll.............. 25

(b) where the applicant carries on business in a municipality having a population of less than 10,000 according to the last revised assessment roll............. 15

(c) where the applicant is not a transportation company, and the licence is expressly limited to accident insurance, or accident and sickness insurance, or travel-accident and baggage insurance, or customs bonds . . . . 10

(d) where the applicant is not a resident of Ontario and resides in a province or state that,

(i) grants licences to residents of Ontario............. 25

(ii) does not grant licences to residents of Ontario... 50

14. Licences for insurance brokers and renewals thereof........... 25

15. Licences for special insurance brokers for business with unlicensed insurers and renewals thereof.............................................. 50

16. Licences for insurance adjusters and renewals thereof:

Each sole proprietor, partnership or corporation.......... 50

and $15 for each active member thereof.

17. Licences under subsection 19 of section 315 in the name of a transportation company authorizing its ticket agent to act as agent for railway accident insurance, live stock insurance or baggage insurance and renewals thereof........................................ 25

18. Certificate of Superintendent.................. 2

19. Copies of or extracts from documents filed with or issued by the Superintendent, per folio of 100 words........... 1

20. Certified copy of licence................................ 2

21. Where the fee payable for a licence under section 23 or 82 exceeds $15, the fee for a period of six months or under shall be one-half of the fee payable for the full term.

22. Examining and passing upon applications or documents in connection with any matter not specifically referred to in this Schedule........................................ 25

Order in Council.................................................. 200

1960, c. 50, s. 4.
SCHEDULE B

PREMIUM NOTE

(Section 180)

(Date)

In consideration of insurance granted under Policy No. .........., I hereby promise to pay the .......... Company at .......... (place of payment) the sum of .......... dollars, as follows:

on .......... day of .........., 19 .........., in full of cash payment, .......... dollars

or

on .......... day of .........., 19 .........., 1st instalment of cash payment, .......... dollars

on .......... day of .........., 19 .........., 2nd instalment of cash payment, .......... dollars

on .......... day of .........., 19 .........., 3rd instalment of cash payment, .......... dollars

—and—

upon notice such further sums not exceeding, in the aggregate, the face amount of this note as may be lawfully assessed hereon by the directors of the said Company under The Insurance Act.

Any action that may be brought or commenced in a division court in respect or on account of this note, or any sum to be assessed thereon, may be brought and commenced against the maker hereof in the division court for the division wherein the head office or any agency of the insurer is located.

$ .........., Signature of Insured

Post Office Address

R.S.O. 1950, c. 183, Sched. B.

SCHEDULE C

(Section 804)

Term of licence .......... to .........., 19 .........., to exchange reciprocal contracts of indemnity or inter-insurance.

DEPARTMENT OF INSURANCE

ONTARIO

RECIPROCAL INSURANCE LICENCE

This is to certify that .........., being an exchange within the meaning of The Insurance Act, has complied with the said Act; and the subscribers of the said exchange are hereby licensed and authorized for and during the term beginning on the .......... day of .........., 19 .........., and ending on the .......... day of .........., 19 .........., to exchange reciprocal contracts of indemnity or inter-insurance (here state class of insurance).

Superintendent of Insurance

R.S.O. 1950, c. 183, Sched. C.