

88. Each and every person violating the provisions of the last preceding section shall for a first offence be liable to a penalty of double the amount of the annual premium on the application or policy in respect of which such violation took place, but in no case shall such penalty be less than one hundred dollars, and for a second or subsequent offence such person shall be liable to a penalty of double the amount of such annual premium, but in no case less than two hundred and fifty dollars.

2. Every director or manager or other officer of any life insurance company within the legislative jurisdiction of the Parliament of Canada or licensed under *The Insurance Act* to carry on the business of life insurance who violates or knowingly consents to or permits the violation of the provisions of the next preceding section by any agent, officer, employee or servant of the company shall be liable to a penalty of five hundred dollars.

3. The penalties provided for in this section shall be recoverable in any Court of competent civil jurisdiction at the suit of any person suing as well for His Majesty as for himself. One-half of any such penalty shall, when recovered, be applied towards payment of the expenses of the Department and the other half to the person suing.

4. No such director, manager, agent, officer, employee or other servant shall be indemnified either in whole or in part either in respect of the penalty or of any costs out of the funds of the company.

89. Except as provided in section 90 of this Act every such life insurance company, anything in its special Act or elsewhere to the contrary notwithstanding, shall provide in every participating policy issued or delivered within Canada on or after the first day of January, one thousand nine hundred and eleven, that the proportion of the surplus accruing upon such policy shall be ascertained and distributed at intervals not greater than quinquennially.

90. In the event of a company issuing, on and after the first day of January, one thousand nine hundred and eleven, policies which provide for the distribution of surplus or profits at less frequent intervals than quinquennially, and known as deferred dividend policies, such company shall, with respect to such policies, ascertain and apportion at least once in every five years, reckoning from the date of the policies, to each class thereof, the share in such surplus or profits to which such class is equitably entitled, and the total sum of the shares so ascertained and apportioned shall, like the reserve or reinsurance fund, be and constitute a liability of the company, and shall be charged and carried in its accounts accordingly until it has been actually distributed and paid to the policyholders entitled thereto.

91. Except in the case of a term or an industrial policy, the share of surplus allotted to any participating policy issued on or after the first day of January, one thousand nine hundred and eleven, shall, at the option of the holder of the policy, be payable in cash, or be applicable to the payment of any premium or premiums, or otherwise if the company grants other options, upon said policy or to purchase of a paid-up addition thereto; and, in the case of a term policy shall, at the holder's option, be payable in cash, or be applicable to the payment of premiums: Provided, however, that

the option of the holder of a policy once exercised shall, except with the consent of the company, remain in force during the whole of the existence of the policy.

92. Such company shall, in all cases where the insured has not elected in his application or otherwise in writing in which manner the said dividends shall be applied, mail a written notice to him, at his last known residence, of the amount of the said dividends and the options available as aforesaid; and in case the holder fails to notify the company in writing of his election within three months after the date of the mailing of said notice, the surplus shall be applied by the company in the case of a term or industrial policy in payment of any premium or premiums upon the policy, and in the case of other policies to the purchase of a paid-up addition to the sum insured.

2. Sections 91 and 92 shall not apply to deferred dividend policies.

93. From and after the first day of January, one thousand nine hundred and eleven, every such company shall, in respect of all participating policies issued and in force in Canada on the said first day of January, one thousand nine hundred and eleven, which provide for the distribution of surplus or profits at less frequent intervals than quinquennially and known as deferred dividend policies, ascertain and contingently apportion at least once in every five years reckoning from the date of the policies, to each class thereof, the share in such surplus or profits to which such class is contingently entitled. The total sum of the shares so ascertained and contingently apportioned shall be carried into the accounts and shall be kept separate and distinct from the undivided or unapportioned surplus and so shown.

94. Any suit, action or proceeding deemed necessary in the interest of the policyholders of any company licensed under this Act, or of any class of such policyholders, may with the consent of the Superintendent be instituted in any court of competent jurisdiction on behalf of such policyholders, by the Attorney General of Canada, against the company or the directors, trustees or other officers thereof, and any judgment recovered in any such suit, action or proceeding whether for an accounting or for any sum of money, shall enure and be applied for the benefit of such policyholders, or class thereof.

2. Proceedings may at the request or with the consent of the Superintendent be instituted by the Attorney-General of Canada under *The Winding-up Act*—

(a) against any Canadian company licensed under this Act, for the making of a winding-up order under said Act, to wind up the business of such company, or

(b) against any company other than a Canadian company licensed under this Act, for an order for the winding-up of its Canadian affairs and the distribution of the Canadian assets of such company pursuant to said Act.

3. The proceedings mentioned in the preceding subsection may be instituted during the continuance of the license of the company upon any ground upon which such an order may be made under the provisions of *The Winding-up Act*, other than Part III thereof, or, after the company has become