Module 8 · Insurance Act, 1938 and IRDA Act, 1999 P13 · Section B · topics 8.1–8.2

SM pp. 347–368. **22.5 marks in 7 papers**: an Insurance **MCQ in 6 of 7 papers** (none in Jun'26), and short long-question parts on **indemnity and subrogation** and **IRDA's objectives**. The **Sabka Bima Sabki Raksha Act, 2025** (Dec'26 supplementary) is the big change.

Paper	What was asked	Marks
Jun'23	MCQ: minimum paid-up capital for life insurance = **₹100 crore** (= SM MCQ 1)	2
Dec'23	MCQ: a promise that something shall or shall not be done, or a condition fulfilled = **warranty**	2
Jun'24	MCQ: ₹100 crore again · Q7(a) principles of **indemnity and subrogation**	2 + 5
Dec'24	MCQ: a policy cannot be questioned after **3 years** (s.45; = SM MCQ 6) · MCQ: when **insurable interest** must exist	2 + 2
Jun'25	MCQ: **3 years** again · Q7(b)(ii) **objectives of setting up IRDA**	2 + 3.5
Dec'25	MCQ: IRDA's annual report to the CG within **nine months** (= SM MCQ 12)	2
Jun'26	nothing	0

HOW IT IS EXAMINED · DEC'26 PREDICTION

- **MCQ (xiii)–(xv): about 55%**, the most likely "other law" MCQ. The 2025 amendment gives new MCQ facts: **FDI 100%**, **5%** share-transfer threshold, **₹1,000 crore** NOF for foreign reinsurers.
- Repeating MCQs: ₹100 crore, 3 years, nine months, insurable interest. A long part (3–5 marks) on principles or IRDA is possible but rare.

MAP

1. History, FDI ⚠ ★★
2. Principles: good faith, warranty, indemnity, subrogation, insurable interest ★★★
3. Insurance Act: capital, accounts, investments, agents, s.45 ★★★
4. IRDA: objectives, functions, constitution ★★
5. 2025 amendment · SM exercise · numbers

8.1 History and foreign investment

- Before **1912** there was no insurance law (the Companies Act 1882 applied). **1912**: the Indian Life Insurance Companies Act and the Provident Insurance Societies Act (life only). The **Insurance Act, 1938** came into force on **1 July 1939**; amended comprehensively in **1950**. [SM 349]
- Life insurance nationalised in **1956**: **LIC** from **1 September 1956** (SM fill-in 6). Marine Insurance Act **1963**. General insurance nationalised in **1972**. [SM 349]
- On the **Malhotra Committee** report, the sector opened to private players in **2000** with the **IRDA Act, 1999**; before that only LIC and GIC (with four subsidiaries). [SM 349]

⚠ FDI: THE SM IS TWO CHANGES BEHIND

SM: up to **26%** automatic, up to **49%** with CG approval; **100%** in intermediaries (brokers, consultants). [SM 349] It went to 74% (2021), and the **Sabka Bima Sabki Raksha Act, 2025** raised it to **100%** (FEMA NDI Rules aligned on **2 May 2026**). [Supp Dec'26 p.8]

8.1.3 Principles of insurance · Jun'24 Q7(a), Dec'23, Dec'24 MCQs

- **Utmost good faith**: insurance is a contract **uberrimae fidei**; both parties must disclose every material fact (*General Assurance Society v. Chandumull Jain*, SC 1966) (an SM fill-in). [SM 350]
- **Misrepresentation**: representations are statements outside the contract; made part of it, they become warranties. To prove it **wilful**: (a) a material matter, (b) suppressed fraudulently, (c) the holder knew it was false. [SM 350] ⚠ The SM's "two years" here is the old s.45; it is now three years (below).
- **Warranty** (Dec'23 MCQ): a breach **avoids the policy even if not material** to the risk; express or implied (implied mostly in marine). [SM 350]
- **Indemnity** (Jun'24): except **life and personal accident**, policies are contracts of indemnity: the insurer pays the **actual loss**, never more (*Vania Silk Mills*, 1991). Limits: (a) the loss must be **proved**; (b) at most the **sum in the policy**; (c) only **proximate** causes; (d) **market value** governs (SM MCQ 17: any or all). [SM 351]
- **Subrogation** ⚠ (the SM gives only the heading): once the insurer **pays the loss**, it **steps into the shoes of the insured** and takes over his rights and remedies against third parties who caused the loss, **up to the amount paid**. It follows from indemnity: the insured cannot recover twice. **Contribution**: with several insurers on the same risk, each bears a rateable share, so the insured does not profit (SM MCQ 13).

- **Conditions**: **precedent** (not met → void ab initio) or **subsequent** (breach → avoided from then); implied conditions (insurable interest, good faith). A condition cutting the limitation period is **void**; an insurer cannot rely on a condition not in the policy (*Modern Insulators*, 2000). [SM 350]
- **Proximate cause** (*causa proxima non remota spectatur*): pay only for loss caused directly by the insured peril; the insured proves it. [SM 351]
- **Insurable interest**: a relationship in which the event would cause the insured **pecuniary loss**; without it the contract is a **wager and void**. Creditors (in the debtor) and employees (in the employer) have it. [SM 351–352]
- **When must it exist? Life and personal accident**: at the **time of taking the policy**. **Fire and motor accident**: **both** at the policy and at the accident (SM MCQ 18). **Marine**: not needed when taking the policy. [SM 352] *Dec'24 MCQ lumped "life and motor" together; the motor rule (C) is the stricter SM sentence.*
- **Consumer protection**: insurance services are covered, so policyholders may complain; an **insurer is not a "consumer"** even by subrogation (*New India Assurance v. B.N. Sainani*, 1997). [SM 351]

8.1.4 Insurance Act, 1938: definitions and salient provisions · Jun'23, Jun'24, Dec'24, Jun'25 MCQs

Definitions: **Insurer** = an Indian insurance company, a statutory insurer, an insurance **co-operative**, or a **foreign reinsurer's branch** (incl. Lloyd's). **Indian insurance company**: a public company limited by shares, solely for life, general, health or re-insurance business, with foreign holding within the limit (SM: **49%**). **General insurance** = fire, marine or miscellaneous. **Re-insurance** = insurance of part of one insurer's risk by another for a premium (SM fill-in 2). **Controller of Insurance** = the officer the **CG** appoints to exercise the Authority's powers (SM MCQ 3). [SM 352–353]

Provision	Rule (SM)
s.2CB foreign insurers	no policy on property in India, or on an Indian ship or aircraft, with an insurer based abroad **without IRDAI permission** [SM 354]
s.6 capital ★	minimum paid-up capital: **life or general ₹100 crore**; **health ₹100 crore**; **reinsurance ₹200 crore** (Jun'23, Jun'24 MCQ = SM MCQ 1, 9). Equity shares of one face value; votes only on equity; same paid-up amount on all shares. "Net owned funds of not less than ₹5,000 crore" [SM 354] ⚠ that NOF applies to foreign reinsurers' branches, and the 2025 Act cut it to ₹1,000 crore.
s.12, 15 accounts	audited accounts and statements, printed, **four copies** to the Authority within **six months** [SM 354–355]
s.13 actuarial valuation	life insurers: investigation and valuation of liabilities **at least once a year** (SM MCQ 5) [SM 355]
s.14 records	record of **policies** (holder, date, assignments, nominations) and of **claims** (date, claimant, settlement or rejection with reasons); may be electronic [SM 355]
s.27 investments	life: **25%** in Government securities + a further **twenty-five per cent** in Government or approved securities, balance in approved investments. General: **25%** in Government securities + **ten per cent** more (SM MCQ 4). In **promoter-group** companies: at most **five per cent** (s.27C) [SM 355–356]
s.29, 30 loans	no loans to the insurer's **directors, manager, actuary, auditor or officers** or their firms, except policy loans within surrender value; directors party to a breach of s.27–29 are **jointly and severally liable** for the loss [SM 356]
s.32D motor third party	general insurers underwrite a minimum share of **motor third-party** business; penalty up to **₹25 crore** (s.105B) [SM 356]
s.33 investigation	the Authority may investigate any insurer or intermediary at any time; costs borne by the insurer, recoverable as land revenue [SM 356]
s.40, 42 agents	commission only to **agents or intermediaries**, per regulations. An agent may act for at most **one life, one general, one health insurer** and one of each mono-line insurer; no principal, chief or special agents; **no multi-level marketing**; no agent may be a director of an insurer without permission [SM 356–357]
s.45 ★★	no life policy can be called in question **on any ground** after **3 years** from the date of the policy (Dec'24, Jun'25 MCQ = SM MCQ 6 and a fill-in). Within 3 years it may be questioned for **fraud** or **material mis-statement or suppression**, the insurer stating the grounds in writing [SM 357]

s.64UM surveyors	must hold prescribed qualifications and be members of the **Indian Institute of Insurance Surveyors and Loss Assessors**; follow a code of conduct [SM 357]
s.64V valuation and solvency	assets at no more than **market or realisable value**; statement certified by an approved auditor or actuary as on **31 March**. Assets must exceed liabilities by at least **fifty per cent** of the s.6 minimum capital; otherwise the insurer is **deemed insolvent** and may be wound up [SM 357–358]

SABKA BIMA SABKI RAKSHA (AMENDMENT OF INSURANCE LAWS) ACT, 2025 (DEC'26 SUPPLEMENTARY)

Assent **20 December 2025**; in force **5 February 2026** (except s.25). Amends the Insurance Act, the IRDAI Act and related laws: (1) **foreign investment** in an Indian insurance company raised from **74% to 100%**, subject to conditions; (2) prior approval for a **transfer of shares** needed above **5%** (was 1%); (3) **net owned funds of foreign reinsurers** cut from **₹5,000 crore to ₹1,000 crore**. [Supp Dec'26 p.8, Supp Dec'26 p.9]

8.2 IRDA Act, 1999 · Jun'25 Q7(b)(ii), Dec'25 MCQ, postal Q7(a)

OBJECTIVES (JUN'25) · MISSION

Set up in **1999** (SM MCQ 8) with the objectives: (i) to **protect the interests of policyholders**; (ii) to **regulate, promote and ensure orderly growth** of the insurance industry; (iii) connected matters. [SM 359]

Mission: (i) protect policyholders and secure their **fair treatment**; (ii) **speedy and orderly growth** for the common man, and long-term funds; (iii) high standards of **integrity, financial soundness and fair dealing**; (iv) act where standards are weak; (v) **speedy settlement of genuine claims**, prevent fraud, grievance machinery; (vi) optimum **self-regulation**. [SM 359]

FUNCTIONS AND POWERS (s.14)

Policies and regulations on: nomination; claim settlement; training of agents; insurable interest; surrender value; codes of conduct; policy information; MIS; self-regulation; **registration certificates** (issue, modify, cancel); **investment of funds**; **solvency margin**; supervising insurers; qualifications of agents; fees; **investigations**; **adjudicating disputes** between insurers and intermediaries; business outside the Tariff Advisory Committee. [SM 359–361]

CONSTITUTION

- A body corporate; **Chairperson**, up to **five whole-time** and up to **four part-time** members, experts in insurance, law, economics, accountancy, actuarial science. [SM 360]
- Chairperson: **five years** or till **sixty-five**, re-appointable (SM MCQ 10); whole-time members till **sixty-two**. Resignation on **three months'** notice; removal for insolvency, insanity, moral-turpitude conviction, conflicting interest. No Government or insurance job for **two years** after leaving. Decisions by majority; chair has a casting vote. [SM 360]
- **Fund**: Government grants, fees and charges, other sums (SM MCQ 11), used for salaries and expenses; accounts audited by the **CAG** and laid before Parliament. [SM 361]
- **Amalgamation or transfer** of insurance business only under a scheme **approved by the Authority**. [SM 361]
- Bound by the CG on **policy**; independent on technical and administrative matters. The CG may **supersede** it for up to **six months**, appointing a Controller of Insurance. **Insurance Advisory Committee** of up to **twenty-five** members. [SM 362]
- **Annual report** to the CG within **nine months** after each year-end (Dec'25 MCQ = SM MCQ 12; the SM has it only in the exercise).

M Model answer · indemnity and subrogation (Jun'24 Q7(a)) · 5 marks

(1) **Indemnity**: except life and personal accident, insurance restores the insured to the position before the loss, **no better**; recovery cannot exceed the **actual loss** even within the sum insured (*Vania Silk Mills*). Limits: proof of loss; the sum in the policy; proximate cause; market value. (2) **Subrogation** (a corollary of indemnity): after paying, the insurer acquires the insured's **rights against third parties** who caused the loss, up to the amount paid; the insured must not prejudice those rights, and any excess recovery goes back to the insurer up to its payment. (3) Related: **contribution** among insurers. [SM 351]

SM SOLVED CASE · AJIT KUMAR WANTS RETAINER FEES FROM 3–4 INSURERS

Advice: (1) commission or reward for procuring insurance may be paid **only to an insurance agent or intermediary**, as the regulations specify (s.40), so he must first **become an agent**; per the SM, a **full-time employee cannot be an agent**. (2) He may act for at most **one life, one general, one health** insurer and one of each mono-line insurer, avoiding **conflicts of interest** (s.42), so "3 or 4" insurers must fit within this. (3) He must comply with the IRDAI's other agent rules. A fixed monthly retainer is not allowed; only regulated commission. [SM 356–357, SM 367]

The SM's own exercise (SM 363–368)

MCQs: 1 life capital **₹100 crore** ★ · 2 (stray BR Act question) **1949** · 3 officer appointed by the CG: **Controller of Insurance** · 4 Government securities **25%** · 5 actuarial valuation every **1 year** · 6 policy unquestionable after **3 years** ★ · 7 regulated by: **none of the above** (it is IRDAI) · 8 IRDA set up in **1999** · 9 **₹100 crore** · 10 chairperson's term **5 years** · 11 Fund: **all of the above** · 12 annual report within **nine months** ★ · 13 no profit from several insurers: **contribution** · 14 an actuary makes a **reasonable forecast** of liabilities · 15 Insurance Laws (Amendment) Act **2015** · 16–17 **all the above** · 18 fire and motor: **both times**. (The SM prints keys for 1–8

only; 9–18 are worked from the SM text.) **True/False:** "indemnity and subrogation" is a principle **T** · the Consumer Protection Act does not apply **F** · an agent can sign all policy documents **F** · health capital ₹300 crore **F** · monitored by IRDA **T**. **Fill-ins:** IRDA · reinsurance · 100 · 3 · indemnified · 1956 · utmost good faith · re-insurance · Central Government · five thousand crore (⚠ now ₹1,000 crore, foreign reinsurers). [SM 363–368]

R Revision: numbers

Rule	Number	Rule	Number
Insurance Act in force / LIC from	1 July 1939 / 1 Sep 1956	accounts to Authority	4 copies / 6 months
capital: life, general, health / reinsurance	₹100 cr / ₹200 cr	Govt securities: life / general	25% + 25% / 25% + 10%
FDI (2025 Act) / share-transfer approval above	100% / 5%	promoter-group investment	≤ 5%
foreign reinsurer NOF (2025 Act)	₹1,000 cr	solvency: assets over liabilities	≥ 50% of s.6 capital
s.45 policy unquestionable after	3 years	motor TP non-compliance penalty	≤ ₹25 cr
IRDA: whole-time / part-time members	≤ 5 / ≤ 4	chair's term / age; members' age	5 yrs / 65; 62
supersession / Advisory Committee	≤ 6 months / ≤ 25	annual report to CG	9 months