



Insurance Companies Act 1982

1982 CHAPTER 50

PART V

SUPPLEMENTARY PROVISIONS

Valuation regulations

90 Power to make valuation regulations

- (1) Regulations may be made with respect to the determination of the value of assets and the amount of liabilities in any case in which the value or amount is required by any provision of this Act to be determined in accordance with valuation regulations.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may provide that, for any specified purpose, assets or liabilities of any specified class or description shall be left out of account or shall be taken into account only to a specified extent.
- (3) Regulations under this section may make different provision in relation to different cases or circumstances and for the purposes of different enactments.

Criminal proceedings

91 Criminal liability of directors

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, chief executive, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and liable to be proceeded against and punished accordingly.

- (2) For the purposes of this section a person shall be deemed to be a director of a body corporate if he is a person in accordance with whose directions or instructions the directors of the body corporate or any of them act.

92 Criminal proceedings against unincorporated bodies

- (1) Proceedings for an offence alleged to have been committed under this Act by an unincorporated body shall be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to the service of documents shall have effect as if that body were a corporation.
- (2) A fine imposed on an unincorporated body on its conviction of an offence under this Act shall be paid out of the funds of that body.
- (3) In a case in which an unincorporated body is charged with an offence under this Act—
- (a) in England or Wales, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980 (procedure on charge of offence against a corporation);
 - (b) in Northern Ireland, section 18 of the Criminal Justice Act (Northern Ireland) 1945 and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 (procedure on charge of offence against a corporation)
- shall have effect in like manner as they have effect in the case of a corporation so charged.
- (4) In relation to any proceedings on indictment in Scotland for an offence alleged to have been committed under this Act by an unincorporated body, section 74 of the Criminal Procedure (Scotland) Act 1975 (proceedings on indictment against bodies corpora(e) shall have effect as if that body were a body corporate.

93 Restriction on institution of prosecutions

Proceedings in respect of an offence under this Act shall not be instituted—

- (a) in England or Wales, except by or with the consent of the Secretary of State, the Industrial Assurance Commissioner or the Director of Public Prosecutions,
- (b) in Northern Ireland, except by or with the consent of the Secretary of State, the Department of Commerce for Northern Ireland or the Director of Public Prosecutions for Northern Ireland.

94 Summary proceedings

- (1) Summary proceedings for any offence under this Act may (without prejudice to any jurisdiction exercisable apart from this subsection) be taken against a body corporate at any place at which the body has a place of business, and against any other person at any place at which he is for the time being.
- (2) Notwithstanding anything in section 127 of the Magistrates' Courts Act. 1980, an information relating to an offence under this Act which is triable by a magistrates' court in England and Wales may be so tried if it is laid at any time within three years after the commission of the offence and within twelve months after the date on which evidence sufficient, in the opinion of the Director of Public Prosecutions, the Secretary

of State or the Industrial Assurance Commissioner, as the case may be, to justify the proceedings comes to his knowledge.

- (3) Summary proceedings in Scotland for an offence under this Act shall not be commenced after the expiration of three years from the commission of the offence.
- (4) Subject to the limitation in subsection (3) above and notwithstanding anything in section 331 of the Criminal Procedure (Scotland) Act 1975, the proceedings referred to in that subsection may be commenced at any time within twelve months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify the proceedings comes to his knowledge or, where such evidence was reported to him by the Secretary of State or the Industrial Assurance Commissioner, within twelve months after the date on which it came to the knowledge of the Secretary of State or Commissioner.
- (5) Subsection (3) of section 331 of the said Act of 1975 shall apply for the purposes of subsections (3) and (4) above as it applies for the purposes of that section.
- (6) Notwithstanding anything in Article 19(1) of the Magistrates' Courts (Northern Ireland) Order 1981, a complaint relating to an offence under this Act which is triable by a court of summary jurisdiction in Northern Ireland may be so tried if it is made at any time within three years after the commission of the offence and within twelve months after the date on which evidence sufficient, in the opinion of the Director of Public Prosecutions for Northern Ireland, the Secretary of State or the Department of Commerce for Northern Ireland, as the case may be, to justify the proceedings comes to his or that Department's knowledge.
- (7) For the purposes of this section a certificate of the Director of Public Prosecutions, the Lord Advocate, the Director of Public Prosecutions for Northern Ireland, the Secretary of State, the Department of Commerce for Northern Ireland or the Industrial Assurance Commissioner, as the case may be, as to the date on which such evidence as aforesaid came to his, or that Department's, knowledge shall be conclusive evidence.

Interpretation

95 Insurance business

For the purposes of this Act " insurance business " includes—

- (a) the effecting and carrying out, by a person not carrying on a banking business, of contracts for fidelity bonds, performance bonds, administration bonds, bail bonds or customs bonds or similar contracts of guarantee, being contracts effected by way of business (and not merely incidentally to some other business carried on by the person effecting them) in return for the payment of one or more premiums ;
- (b) the effecting and carrying out of tontines;
- (c) the effecting and carrying out, by a body (not being a body carrying on a banking business) that carries on business which is insurance business apart from this paragraph, of—
 - (i) capital redemption contracts;
 - (ii) contracts to manage the investments of pension funds (other than funds solely for the benefit of its own officers or employees and their dependants or, in the case of a company, partly for the benefit of those persons and partly for the benefit of officers or employees and their

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

- dependants of its subsidiary or holding company or a subsidiary of its holding company);
- (d) the effecting and carrying out of contracts to pay annuities on human life.

96 General interpretation

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

- "actuary" means an actuary possessing the prescribed qualifications;
- "annuities on human life" does not include superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment, or of the dependants of such persons ;
- "body corporate" does not include a corporation sole or a Scottish firm but includes a body incorporated outside the United Kingdom;
- "chief executive" has the meaning given in section 7 above;
- "contract of insurance" includes any contract the effecting of which constitutes the carrying on of insurance business by virtue of section 95 above ;
- "controller" has the meaning given in section 7 above ;
- "court" means the High Court of Justice in England or, in the case of an insurance company registered or having its head office in Scotland, the Court of Session or, in the case of an insurance company registered or having its head office in Northern Ireland, the High Court of Justice in Northern Ireland ;
- "deed of settlement", in relation to an insurance company, includes any instrument constituting the company;
- "director" includes any person occupying the position of director by whatever name called ;
- "enactment" includes an enactment of the Parliament of Northern Ireland and a Measure of the Northern Ireland Assembly;
- "financial year" means, subject to section 69 above, each period of twelve months at the end of which the balance of the accounts of the insurance company is struck or, if no such balance is struck, the calendar year;
- "former Companies Acts" means the Companies Act 1929 or the Companies Act (Northern Ireland) 1932 and any enactment repealed by that Act of 1929 or, as the case may be, that Act of 1932 or by the Companies (Consolidation) Act 1908;
- "general business" has the meaning given in section 1 above;
- "holding company" shall be construed in accordance with section 154 of the Companies Act 1948 or section 148 of the Companies Act (Northern Ireland) 1960;
- "industrial assurance business" has the meaning given in section 1(2) of the Industrial Assurance Act 1923 or Articles 2(2) and 3(1) of the Industrial Assurance (Northern Ireland) Order 1979 ;
- "insolvent" means, in relation to an insurance company at any relevant date, that if proceedings had been taken for the winding up of the company the court could, in accordance with the provisions of sections 222 and 223 or section 399 of the Companies Act 1948 or, as the case may be, sections 210 and 211 or section 349 of the Companies Act (Northern Ireland) 1960, hold or have held that the company was at that date unable to pay its debts;

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

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

" long term business " has the meaning given in section 1 above;

" long term policy holder " means a policy holder in respect of a policy the effecting of which by the insurer constituted the carrying on of long term business;

" main agent " has the meaning given in section 7 above ;

" manager ", except in section 56, has the meaning given in section 7 above;

" margin of solvency ". " United Kingdom margin of solvency " and " Community margin of solvency shall be construed in accordance with section 32 above;

" mortgage", in relation to Scotland, means a heritable security within the meaning of section 9(8) of the Conveyancing and Feudal Reform (Scotland) Act 1970 ;

" ordinary long-term insurance business " means long term business that is not industrial assurance business ;

" policy "—

- (a) in relation to ordinary long-term insurance business and industrial assurance business, includes an instrument evidencing a contract to pay an annuity upon human life;
- (b) in relation to insurance business of any other class includes any policy under which there is for the time being an existing liability already accrued or under which a liability may accrue ; and
- (c) in relation to capital redemption business, includes any policy, bond, certificate, receipt or other instrument evidencing the contract with the company ;

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

- (a) in relation to such ordinary long-term insurance business or industrial assurance business as consists in the granting of annuities upon human life, includes an annuitant; and
- (b) in relation to insurance business of any kind other than such as is mentioned in the foregoing paragraph or capital redemption business, includes a person to whom, under a policy, a sum is due or a periodic payment is payable ;

" prescribed " means prescribed by regulations under this Act;

" registered society " means a society registered or deemed to be registered under the Industrial and Provident Societies Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969 ;

" registrar of companies " has the meaning given in section 455 of the Companies Act 1948 and " registrar of companies in Northern Ireland " means the registrar of companies within the meaning of section 399(1) of the Companies Act (Northern Ireland) 1960 ;

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" subsidiary ", except in section 57, shall be construed in accordance with section 154 of the Companies Act 1948 or section 148 of the Companies Act (Northern Ireland) 1960:

" supervisory authority ", in relation to a member State other than the United Kingdom, means the authority responsible in that State for supervising insurance companies;

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

" valuation regulations " means regulations under section 90 above;

" vessel " includes hovercraft.

- (2) References in this Act to a fund or funds maintained in respect of long term business are references to a fund or funds maintained under section 28(1)(b) above and in sections 48(3) and 55(6) above include references to a fund or funds maintained under section 3(1) of the Insurance Companies Act 1958 or section 14(1) of the Insurance Companies Act (Northern Ireland) 1968.
- (3) A person shall not be deemed to be within the meaning of any provision of this Act a person in accordance with whose directions or instructions the directors of a company or other body corporate or any of them are accustomed to act by reason only that the directors of the company or body act on advice given by him in a professional capacity.
- (4) Any reference in this Act to an enactment of the Parliament of Northern Ireland or a Measure of the Northern Ireland Assembly shall include a reference to any enactment re-enacting it with or without modifications.

Supplementary

97 Regulations and orders

- (1) The Secretary of State may make regulations under this Act for any purpose for which regulations are authorised or required to be made thereunder.
- (2) Regulations under this Act may make different provision for cases of different descriptions.
- (3) Any power conferred by this Act to make regulations shall be exercisable by statutory instrument.
- (4) Any statutory instrument containing regulations under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.

98 Annual report by Secretary of State

The Secretary of State shall cause a general annual report of matters within this Act to be laid before Parliament.

99 Savings, transitionals, consequential amendments and repeals

- (1) The saving and transitional provisions specified in Schedule 4 to this Act shall have effect.

- (2) The enactments mentioned in Schedule 5 to this Act shall have effect subject to the amendments there specified, being amendments consequential on the provisions of this Act.
- (3) The enactments mentioned in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

100 Short title, commencement and extent

- (1) This Act may be cited as the Insurance Companies Act 1982.
- (2) Subject to Schedule 4 to this Act, this Act shall come into force at the expiration of the period of three months beginning with the date on which it is passed.
- (3) This Act extends to Northern Ireland.