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STATUTORY INSTRUMENTS

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**1979 No. 1574**

**Industrial Assurance (Northern Ireland) Order 1979**

*Introductory*

**Title and commencement**

- 1.—(1) This Order may be cited as the Industrial Assurance (Northern Ireland) Order 1979.  
(2) *Commencement*

**Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954, except sections 11(11), 32, 38 and 46(2), shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“collecting book” includes any book or document held by a collector in which payments of premiums are recorded;

[<sup>F1</sup>“collecting society” means an incorporated friendly society or registered friendly society<sup>F2</sup> which carried on industrial assurance business in Northern Ireland immediately before 1st December 2001, and is subject to an existing liability or a liability which may accrue under any policy effected in the course of that business]]

“collector” includes every person howsoever remunerated who, by himself or by any deputy or substitute, makes house to house visits for the purpose of receiving premiums payable on policies of insurance on human life, or holds any interest in a collecting book, and includes such a deputy or substitute as aforesaid;

[<sup>F1</sup>“the Commission” means the Friendly Societies Commission;

“friendly society” and “incorporated friendly society” have the same meanings as in the Friendly Societies Act 1992]

*Definition rep. by 1992 c. 40*

*Definition rep. by SI 2001/3647*

“endowment policy” means a policy issued, or deemed under paragraph 5 of Schedule 9 to have been issued, in accordance with paragraph 1(1)(b) of Schedule 9, or a policy insuring money to be paid on the duration for a specified period of the life of the member or person assured, either with or without provision for the payment of money in the event of the death of that person before the expiration of the period;

“exempted business” means any of the following assurances upon human life—

- (a) assurances effected by a collecting society or an industrial assurance company established before 7th November 1924 which, at that date, had no assurances outstanding the premiums on which were payable at intervals of less than one month, so long as the

society or company<sup>[F2]</sup> did not effect any such assurances in the period between that date and 1st December 2001];

- (b) assurances effected before 7th November 1924, premiums in respect of which are payable at intervals of one month or more, and which had, up to 1st January 1925, been treated as part of the business transacted by a branch other than the industrial branch of the collecting society or industrial assurance company;
- (c) assurances for £25 or more effected after 6th November 1924, premiums in respect of which are payable at intervals of one month or more,<sup>[F2]</sup> and which were treated before 1st December 2001 as part of the business transacted by a branch other than the industrial branch of the collecting society or industrial assurance company, in cases where the relevant authority had certified before that day that the terms and conditions of such assurances were], on the whole, not less favourable to the assured than those imposed by this Order;

<sup>[F1]</sup>“the Friendly Societies Act” means the Friendly Societies Act 1974]

“industrial assurance business” has the meaning assigned to it by Article 3(1);

<sup>[F1]</sup>“industrial assurance company” means a body corporate<sup>[F2]</sup> which carried on in Northern Ireland industrial assurance business immediately before 1st December 2001, and is subject to an existing liability or a liability which may accrue under any policy effected in the course of that business] other than an incorporated friendly society]

*Definition rep. by 1980 c. 25*

“owner” means—

- (a) in relation to any policy, the person who is for the time being the person entitled to receive the sums payable under the policy on maturity; and
- (b) in the case of an illegal policy or a policy not within the legal powers of the collecting society or industrial assurance company which issued it, the person who would be so entitled were the policy a legal policy or a policy within those powers;

“parent” for the purposes of Article 16 and Schedules 2, 3 and 4, includes a stepfather and a stepmother;

“policy”<sup>[F2]</sup> means a policy effected before 1st December 2001 and] includes any contract of assurance, and, for the purposes of Articles 23, 27(4) and (5) and 35(3) and paragraph 1(1) ( b)(i) of Schedule 9, the date of the making of any such contract shall be deemed to be the date of the issue of the policy;

“premium” includes contribution;

“premium receipt book” includes any book or document held by the owner of a policy in which acknowledgements of receipts of premiums payable in respect of the policy are entered;

“prescribed” shall be construed in accordance with Article 49(1)( a);

“proposal”, in relation to an insurance, includes an application for an insurance, and “proposer” shall be construed accordingly;

“registered friendly society”, in . . . Schedule 9 paragraph 1, includes a society registered or deemed to be registered in Great Britain whose rules have been recorded in Northern Ireland;

“Registrar” means the officer appointed under section 96(1) of the<sup>[F1]</sup> Friendly Societies Act (Northern Ireland) 1970] to perform in Northern Ireland the powers and duties of Registrar of Friendly Societies;

<sup>[F3]</sup>“relevant insurer” means a person, whether incorporated or not, who carried on industrial assurance business before 1st December 2001;]

“rules” in relation to a company, means the memorandum and articles of association of the company.

[<sup>F1</sup>(2A) In paragraph (2) above, in the definition of “exempted business” , in paragraph (c) “certified” means—

- (a) in relation to a time before Schedule 19 to the Friendly Societies Act 1992 came into force, certified by the Registrar in his capacity as Industrial Assurance Commissioner; and
- (b) in relation to a time after the coming into force of that Schedule, certified by the Commission.]

(3) Expressions in this Order (other than those mentioned in paragraph (2)) have the same meanings as in the Friendly Societies Act.

(4) References in this Order to the recording of rules (of a friendly society registered or deemed to be registered in Great Britain) in Northern Ireland are to their being recorded under section 14 of the Friendly Societies Act 1896 or under regulations made under section 104 of the [<sup>F1</sup> Friendly Societies Act (Northern Ireland) 1970].

*Paras. (5), (6) rep. by 1987 NI 22*

*Paras. (7), (8) rep. by SI 2001/3647*

**Annotations:**

- F1** 1992 c. 40
- F2** SI 2001/3647
- F3** SI 2002/1555

*Industrial assurance*

**Industrial assurance business**

**3.—**(1) Save as otherwise provided by this Order and without prejudice to paragraph 1(3) of Schedule 9 (certain endowments and other insurances), this Order applies to industrial assurance business,<sup>F4</sup> . . .

[<sup>F4</sup>(1A) For the purposes of this Order, “industrial assurance business” means any which business which—

- (a) when carried on before 1st December 2001, consisted of effecting assurances upon human life (other than exempted business), the premiums in respect of which—
  - (i) were received by means of collectors, and
  - (ii) were payable at intervals of less than two months; and
- (b) when carried on on or after that day, consists of the carrying out of such assurances, the premiums in respect of which—
  - (i) either continue to be received by means of collectors, or are received by other means pursuant to an agreement made in accordance with Article 3A, and
  - (ii) either continue to be payable at intervals of less than two months, or are payable at intervals or two months or more pursuant to an agreement made accordance with Article 3A]

*Paras. (2)#(4) rep. by SI 2001/3647*

**Annotations:**

- F4** SI 2001/3647

[<sup>F5</sup>3A.—(1) Subject to paragraphs (2) to (4), a collecting society or industrial assurance company may agree in writing with the owner either or both of the following kinds of variation in relation to an industrial assurance policy, that is—

- (a) that the premiums shall be received otherwise than by means of a collector; and
- (b) that the premiums shall be paid at intervals of two months or more.

(2) Before agreeing to a variation of a kind mentioned in paragraph (1), the society or company must inform the owner in writing—

- (a) in any case where it may be agreed that premiums are to be collected by means of a method which may incur charges imposed by any person, of the fact that the owner may be liable to pay such charges; and
- (b) in all cases—
  - (i) of his rights under paragraph (3), and
  - (ii) of an address to which the owner may send a notice given in accordance with paragraph (3).

(3) (a) The owner may withdraw his consent to a variation of the kind mentioned in paragraph (1) if, before the end of a period of 14 days ("period for withdrawal") beginning with the day on which he agreed in writing to such a variation, he gives notice in writing to the society or company that he no longer consents to the variation;

- (b) an owner is to be treated as having given notice in accordance with paragraph (a) if, before the end of the period for withdrawal, he—
  - (i) gives the notice to a collector,
  - (ii) leaves the notice at a branch or office of the society or company,
  - (iii) send the notice pre-paid by a postal service which seeks to deliver documents by post within the United Kingdom no later than the next working day in all or the majority of cases to the address given in accordance with paragraph (2)(b)(ii), or
  - (iv) transmits the notice by fax, e-mail or other electronic means of communication to a number or address notified by the society or company for that purpose;
- (c) for the purposes of this paragraph, writing includes any means of electronic communication which may be processed to produce a legible text.

(4) A company or society must ensure that an owner who has agreed to a variation of a kind mentioned in paragraph (1), and has not withdrawn his consent to the variation in accordance with paragraph (3), receives a copy of the agreement no later than 7 days after the expiry of the period for withdrawal.

(5) A variation to the terms of a policy agreed in accordance with this Article takes effect on a date falling after the expiry of the period for withdrawal and agreed in writing by the society or company and the owner.

(6) Where a variation of the kind mentioned in paragraph (1)(a) has taken effect, that variation applies to the payment of any arrears owing on the date it takes effect as it applies to the payment of premiums falling due after that date.

(7) If a society or company fails to comply with any requirement under paragraph (2) or (4)—

- (a) the variation may be rescinded, at the election of the owner, at any time before the end of a period of 6 months beginning with the day on which the variation took effect; and
- (b) the society or company must reimburse the owner for any charges incurred and paid by him as a result of the payment of premiums by direct debit or standing order pursuant to that variation.

(8) The policy does not cease to be an industrial assurance policy for the purposes of this Act by reason only of a variation agreed in accordance with this Article.]

**Annotations:**

**F5** SI 2001/3647

**The Industrial Assurance Commissioner for Northern Ireland**

*Para. (1) rep. by 1992 c. 40*

(2) Anything which, under the Friendly Societies Act, is authorised or required to be done by, to or before the<sup>F6</sup> Chief Registrar of Friendly Societies] shall, where the society is a collecting society, be done by, to or before the<sup>F6</sup> Commission].

*Para. (3) rep. by 1992 c. 40*

**Annotations:**

**F6** 1992 c. 40

*Provisions applying only to collecting societies*

**Name of society**

**5**<sup>F7</sup>.—(1) Subject to paragraph (2), the last words in the name of a collecting society shall be “collecting society”, and the society shall use its registered name on all documents issued by it and no other name.

(2) Paragraph (1) shall not apply to a collecting society registered before 1st January 1896 or to a friendly society which became a collecting society before 7th November 1924.

**Annotations:**

**F7** prosp. rep. by 1992 c. 40

*Arts. 6#8 rep. by 1992 c. 40*

**Obligations as to delivery of policies and copies of rules, etc.**

**9.**—(1) A collecting society shall supply a member, free of charge, with the following—

- (a<sup>F8</sup> on his insuring with the society, with a printed policy<sup>F9</sup> . . . or, if the society has been granted a certificate under Article 12 exempting it from the requirement imposed by this paragraph to supply a policy, with a copy of the rules of the society;

*Sub#paras. (b), (c) rep. by 1992 c. 40*

*Paras. (2)#(5) rep. by 1992 c. 40*

**Annotations:**

**F8** prosp. rep. by 1992 c. 40

**F9** 1992 c. 40

*Arts. 10, 11 rep. by 1992 c. 40*

### Exemptions, total and partial

12.—<sup>F10</sup>(1) The Commission may, on the application of a collecting society, grant it a certificate of exemption from all or any of the provisions of this Order, in any case where the Commission is satisfied that the society does not or will not carry on the business of effecting assurances upon human life, premiums in respect of which are received by means of collectors at a greater distance than ten miles from the registered office of the society, and where the Commission is of the opinion that the society is not one to which those provisions ought to apply.]

(2) A certificate of exemption under this Article shall be granted subject to the condition that the collecting society will not employ collectors to receive premiums on policies of assurance upon human life issued by the society at a greater distance than 10 miles from the registered office of the society, and, if, in the case of any society to which a certificate of exemption has been so granted, that condition is at any time not complied with, the society and any collector so employed shall be deemed to have contravened the provisions of this Order, and this Order shall be deemed, as from the date of such non-compliance, to have applied to the society as if such a certificate of exemption had not been granted to it.

(3) A certificate of exemption under this Article shall be subject to revocation by the<sup>F10</sup> Commission], but shall remain in force until—

- (a) it has been so revoked, and
- (b) notice of the revocation has been—
  - (i) advertised in the Belfast Gazette and in some newspaper in general circulation in the neighbourhood of the registered office of the society, and
  - (ii) transmitted to the society by post.

(4) In this Article, “assurance upon human life” does not apply to any contract providing benefits in sickness or other infirmity if the terms of the contract are such that, of the amounts paid by way of premiums thereunder, not less than 60 per cent. will be paid for the purpose of providing those benefits.

#### Annotations:

**F10** 1992 c. 40

### Power to exempt societies registered in Great Britain

13.—(1) The<sup>F11</sup> Commission] may, on the application of a collecting society<sup>F11</sup> whose registered office is] in Great Britain, by order exempt it from any provision of this Order if he is satisfied that the existence of a provision of an enactment of the Parliament of the United Kingdom renders it unnecessary for the first-mentioned provision to apply to the society.

(2) The<sup>F11</sup> Commission] may by order ( “the revoking order”) revoke an order under paragraph (1).

(3) The<sup>F11</sup> Commission] shall, within the three days next after making the revoking order, give written notice to the collecting society of the making of that order.

(4) The revocation of an order under paragraph (1) shall not take effect until—

- (a) such period as may be specified in the revoking order (which shall not be less than the four weeks next after the making thereof) has expired; and
- (b) notice that the revoking order has been made has been published in the Belfast Gazette.

**Annotations:**

F11 1992 c. 40

**Conditional exemption of juvenile societies**

14.—(1) This Order shall not apply to a juvenile society, notwithstanding that premiums for juvenile members of the society are received by means of collectors, if and so long as premiums of any members of the society who are not juvenile members are not so received.

(2) In this Article—

“juvenile society” means a friendly society or branch, registered in Great Britain or Northern Ireland, which consists wholly or in part of juvenile members, and which is shown to the satisfaction of the Commissioner to be connected with, or to be a branch of, a friendly society so registered before 1st July 1926;

“juvenile member” means a member under the age of 18 years.

[<sup>F12</sup>(3) In paragraph (2) above “shown” means—

- (a) in relation to a time before Schedule 19 to the Friendly Societies Act 1992 came into force, shown to the satisfaction of the Registrar in his capacity as Industrial Assurance Commissioner; and
- (b) in relation to a time after the coming into force of that Schedule, shown to the satisfaction of the Commission.]

**Annotations:**

F12 1992 c. 40

*Provisions applying only to industrial assurance companies*

**Prohibition of insuring money to be paid on death of a child under 10**

15.—(1) Subject to paragraphs (2) and (3), an industrial assurance company shall not insure so as to render any sum payable under the insurance on the death of any person at any time before he attains the age of 10 years, otherwise than by way of repayment of the whole of any part of premiums paid.

(2) Paragraph (1) does not apply to a sum payable to another person who has an interest in the life of the person on whose death the sum is payable.

(3) Subject to any order under Article 52, paragraph (1) applies only where the death in question is that of a person who, at the time of the proposal, is ordinarily resident in the United Kingdom or the Isle of Man.

**Insurance on life of parent or grandparent**

16.—(1) The purposes for which industrial assurance companies may insure include insuring money to be paid to the person insured on the death of a parent or grandparent of his.

(2) Paragraph (1) has effect subject to the limitations and other provisions contained in Schedule 3.

### **Prohibition of charges on industrial assurance fund**

17.—(1) Subject to paragraph (2), an industrial assurance company shall not issue any debentures or debenture stock, or raise any loan, charged or purporting to be charged on any assets of the company in which the industrial assurance fund is invested, and any such charge shall be void.

(2) Paragraph (1) does not apply to a temporary bank overdraft.

### **Investigation of affairs**

18.—<sup>F13</sup>(1) If in the opinion of the Commission there is reasonable cause to believe that an offence against this Order or against the Insurance Companies Act 1982 has been or is likely to be committed by an industrial assurance company, the Commission or any inspector appointed by it for the purpose shall have power to examine into and report on the affairs of the company, and for that purpose may exercise in respect of the company all or any of the powers given by Part V of the Friendly Societies Act 1992 to a person appointed by the Commission to investigate a friendly society.

(2) Where it receives the report of a person appointed under paragraph (1), the Commission may issue such directions and take such steps as it considers necessary or proper to deal with the situation disclosed by the report and in particular may present a petition to the court for the winding up of the company.]

(3) The<sup>F13</sup> Commission] may, if<sup>F13</sup> it] considers it just, direct that all or any of the expenses of, and incidental or preliminary to, an investigation under this Article shall be defrayed out of the funds of the company, or by the officers or former officers or board of directors of the company, or any of them, in such proportions as the<sup>F13</sup> Commission] directs, and sums directed by the<sup>F13</sup> Commission] to be so paid shall be recoverable summarily by<sup>F13</sup> it] as a civil debt.

(4) Any industrial assurance company or person directed to pay any part of any such expenses as are mentioned in paragraph (3) may, with the leave of the High Court, appeal against the direction to that Court.

#### **Annotations:**

**F13** 1992 c. 40

### **Order to have effect notwithstanding rules or special Act**

19.—(1) Subject to paragraph (2), the provisions of this Order shall have effect notwithstanding anything in the rules or special Act of any industrial assurance company.

(2) Nothing in this Order shall affect the liability of the industrial assurance fund, or of the life assurance fund in the case of a company established before the 1st January 1925, to the prejudice of persons interested in contracts entered into by the company before that date.

*Provisions applying to both collecting societies and industrial assurance companies*

### **Illegal policies**

20.—<sup>F14</sup>(1) Where an industrial assurance policy was, at the time of its issue, illegal or not within the legal powers of the relevant insurer which issued it, the collecting society or industrial assurance company which receives, or is entitled to receive, premiums in respect of that policy (whether or not it issued the policy) shall, without prejudice to any other penalty, be<sup>F15</sup> liable] to pay to the owner of the policy a sum equal to the surrender value of the policy (to be ascertained in manner hereafter provided), or, if the policy was issued after commencement of this Order, a sum equal to the amount

of the premiums paid, unless it is proved that owing to any false representations on the part the proposer, the relevant insurer did not know that the policy was illegal or beyond its legal powers.]

(2) A collector of, or person employed by, a society or company shall not knowingly assist in effecting a policy of industrial assurance which is illegal or not within the legal powers of the society or company.

**Annotations:**

**F14** SI 2001/3647

**F15** SI 2002/1555

**Premium receipt books**

**21.**—<sup>[F16]</sup>(1) <sup>[F16]</sup>Subject to paragraph (2),] a collecting society and an industrial assurance company shall provide premium receipt books for use in respect of policies of industrial assurance. . . , and shall cause a receipt for each payment in respect of such a policy, or of two or more such policies, to be entered in such a book.

<sup>[F16]</sup>(2) A collecting society or industrial assurance company is not required to provide a premium receipt book in accordance with paragraph (1), if it provides either or both—

- (a) receipts in respect of each premium received; or
- (b) statements recording premiums received.

(3) Paragraph (2) applies only if the company or society has given the owner of the policy of industrial assurance and, if different, the person who ordinarily pays the premiums in relation to that policy—

- (a) notice in writing that, from a specified date falling not less than one month after the date of the notice, receipts or statements or both will be provided in respect of that policy; and
- (b) a statement of protective provisions, in accordance with Article 22(2).

(4) For the purposes of paragraphs (2) and (3), “receipt” means a document which complies with the requirements specified in Article 21A, and “statement” means a document which complies with the requirements specified in Article 21B.]

**Annotations:**

**F16** SI 2001/3647

<sup>[F17]</sup>**21A.** A receipt must state—

- (a) the number of the policy in respect of which a premium is received;
- (b) the amount of the premium received and, if premiums are paid in respect of more than one policy, the amount referable to a particular policy;
- (c) the date on which the premium is received;
- (d) the name of the collector;
- (e) the registered name of the society or company; and
- (f) an address to which the owner may direct any enquiries in connection with the policy.]

**Annotations:**

**F17** SI 2001/3647

**21B.**—(1) This Article applies if a society or company provides a statement recording premiums received in respect of a policy of industrial assurance.

(2) Subject to paragraph (4), the society or company must provide such a statement to the owner of that policy—

- (a) before the end of a period of twelve months beginning with the day on which the society or company agreed with the owner of the policy to provide statements recording premiums received; and
- (b) at least once in every subsequent period of twelve months.

(3) A statement must be in writing and must state—

- (a) the period to which the statement relates;
- (b) the number (if any) and the date of the policy in respect of which a premium or premiums have been received during that period;
- (c) the amount or, as the case may be, the aggregate amount of the premium or premiums received during that period and, if premiums are paid in respect of more than one policy, the amount or aggregate amount referable to a particular policy;
- (d) the registered name of the society or company.

(4) If, in any period mentioned in paragraph (2)(a) or (b) (whichever is applicable)—

- (a) no premium is received by a society or company in respect of that policy; or
- (b) the society or company has paid all sums it is liable to pay under that policy,

the society or company is not required to give a statement in respect of that period.

(5) For the purposes of this Article, writing includes any means of electronic communication which may be processed to produce a legible text.

### **Matters to be set out in premium receipt books**

**22.**—<sup>F18</sup>(1) <sup>F18</sup>Subject to paragraph (2), a premium receipt book provided in accordance with Article 21(1) must set out the matters specified in Schedule 4 relating to the statutory provisions specified in that Schedule.

<sup>F18</sup>(2) If a collecting society or industrial assurance company ceases to provide a premium receipt book in respect of a policy of industrial assurance, the society or company must give to the owner of that policy a written statement of the matters specified in Schedule 4A to this Order ('statement of protective provisions').]

#### **Annotations:**

**F18** SI 2001/3647

### **Returns as to industrial assurances**

**23.**—(1) A collecting society ...<sup>F19</sup> shall, for each year as respects which they are required by the<sup>F20</sup> Commission] in the prescribed manner to do so, send to him within such period as may be prescribed a return giving prescribed particulars as to policies of industrial assurance issued by the society ... which were in force at the beginning of that year, in force at the end of that year, issued during that year or discontinued or converted to free policies during that year.

*Para. (2) rep. by 1992 c. 40*

(3) In this Article, “year” means—

- (a) in relation to a collecting society, a year ending on 31st December; and

*Sub#para. (b) rep. by 1980 c. 25*

**Annotations:**

**F19** 1980 c. 25

**F20** 1992 c. 40

**Valuations, etc.**

**24.** The provisions of Schedule 5 shall, in the case of a<sup>F21</sup> . . . an industrial assurance company, have effect in relation to valuations and to the other matters specified therein, including the powers of the<sup>F21</sup> Commission] in any case where the valuation discloses a deficiency.

**Annotations:**

**F21** 1992 c. 40

**General meetings**

**25.—**(1) At least one general meeting of every<sup>F22</sup> . . . industrial assurance company shall be held in every year.

(2) Except where the day, hour and place of an annual or other periodical meeting is fixed by the rules, notice of every general meeting shall either be given by the . . . company to the members by advertisement to be published at least twice in two or more of the newspapers in general circulation in every county where the . . . industrial assurance company carries on business, or be served upon every member.

(3) The notice shall specify the day, hour and place, and objects of the meeting, and, in case any amendment of a rule is intended to be proposed, shall contain a copy of every such amendment.

(4) The . . . industrial assurance company shall publish the last of such advertisements, or serve the notice, at least 14 days before the day appointed for the meeting, and shall, during those 14 days, keep a copy of the notice in legible characters affixed in some conspicuous place in or outside every office at which the business of the . . . company is carried on.

**Annotations:**

**F22** 1992 c. 40

*Rights of owners of policies*

**Proposals for policies**

**26.—**(1) Every proposal for an industrial assurance policy shall, except where—

- (a) the policy is taken out on the life and on behalf of a child under the age of 16 years; or
- (b) the policy assures a payment of money on the death of a parent or grandparent and is effected in exercise of the power conferred by Article 16; or
- (c) the person whose life is to be assured under the policy is a person in whom the proposer has an insurable interest;

contain a declaration by the person whose life is to be assured that the policy is to be taken out by him, and that the premiums thereon are to be paid by him.

(2) Where the person whose life is to be assured under the policy is a person in whom the proposer has an insurable interest, the proposal shall contain a statement of the nature of that interest.

(3) A collecting society or industrial assurance company shall not, nor shall any collector or agent of such a society or company, issue a proposal form or accept a proposal which does not comply with the foregoing provisions of this Article.

### **Misstatements, and non-disclosure, in proposals**

27.—<sup>F23</sup>(1) If an industrial assurance policy was issued pursuant to a proposal which contained a statement that the person whose life was proposed to be assured was not at the time of making that proposal a person on whose life another policy had been issued by the relevant insurer that accepted the proposal, that policy is valid, notwithstanding that the statement was not true, and that the truth of the statement was made a condition of the policy.]

(2) Subject to paragraphs (3) and (4), if a proposal form for an industrial assurance policy<sup>F23</sup> was filled in] wholly or partly by a person employed by the collecting society or industrial assurance company,<sup>F23</sup> a collecting society or industrial assurance company which receives, or is entitled to receive, premiums under that policy shall not], except where a fraudulent statement in some material particular<sup>F23</sup> had been made] by the proposer, be entitled to question the validity of the policy founded on the proposal on the ground of any misstatement contained in the proposal form.

(3) If the proposal form mentioned in paragraph (2) contains a misstatement as to the age of the person whose life is proposed to be assured, the society or company may so adjust the terms of the policy, or of any policy which may be issued in substitution or in lieu thereof, as to make them correspond with the terms which would have been applicable if the correct age of the person had been originally inserted in the proposal.

(4) In relation to a policy issued after 22nd December 1948, paragraph (2) does not apply to a misstatement concerning the state of health of the person upon whose life the assurance is to be taken out.

(5) Nothing in any term or condition of an industrial assurance policy issued after 22nd December 1948, or in the law relating to insurance shall operate to except the collecting society or industrial assurance company from liability under such a policy, or to reduce the liability of the society or company under such a policy, on the ground of any matter relating to the state of health of the person upon whose life the assurance is taken out, other than the ground of the proposer's having, when making the proposal or thereafter and before the making of the contract, either—

- (a) made an untrue statement of his knowledge and belief as regards that matter; or
- (b) failed to disclose to the society or company something known or believed by him as regards that matter.

#### **Annotations:**

**F23** SI 2001/3647

### **Return of policies and premium receipt books after inspection**

28.—(1) Subject to paragraph (2), if at any time a collecting society or industrial assurance company, or any person employed by such a society or company, takes possession of a policy or premium receipt book or other document issued in connection with a policy, a receipt shall be given, and the policy, book or document shall be returned to the owner of the policy within 21 days, unless the policy has been terminated by reason of satisfaction of all claims capable of arising thereunder.

(2) Where possession is taken of a policy, book or document for the purpose of legal proceedings to be taken against a collector by the collecting society or industrial assurance company that issued

the policy, the society or company may retain the policy, book or document so long as may be necessary for the purposes of those proceedings, but, in that case, if the policy, book or document is retained for more than 21 days, the society or company shall supply to the owner of the policy a copy thereof certified by the society or company to be a true copy.

[<sup>F24</sup>29. A forfeiture shall not be incurred by any member or person assured in a collecting society or industrial assurance company by reason of any default in paying any premium under a contract the effecting of which constituted the carrying on of industrial assurance business until after—

- (a) notice stating the amount due from him, and informing him that in case of default of payment by him within 28 days and at a place to be specified in the notice his interest or benefit will be forfeited, has been served upon him by or on behalf of the society or company; and
- (b) default has been made by him in paying any premium in accordance with that notice.]

**Annotations:**

**F24** 1992 c. 40

**Provisions as to forfeited policies**

**30.**—(1) Where notice of the forfeiture of a policy of industrial assurance by reason of default in the payment of any premium thereunder has been served on the owner of the policy, then, if the policy is one—

- (a) for the whole term of life or for a term of 50 years or more, and the person whose life is assured under it was over 15 years of age at the time of the default, and not less than five years' premiums have been paid on the policy; or
- (b) for a term of 25 years or more, but less than 50 years, and not less than five years' premiums have been paid on it; or
- (c) for a term of less than 25 years and not less than three years' premiums have been paid on it;

the owner of the policy shall, on making application for the purpose to the collecting society or industrial assurance company within one year from the date of the service of the notice, be entitled—

- (i) to a free paid-up policy for such amount as is mentioned in paragraphs (2) and (3) payable upon the happening of the contingency upon the happening of which the amount assured under the original policy would have been payable or of any other contingency not less favourable to the owner of the policy; or
- (ii) if the owner of the policy is permanently resident or submits satisfactory proof of his intention to make his permanent residence outside Northern Ireland, Great Britain, the Isle of Man and the Channel Islands, or if the person whose life is assured has disappeared and his existence is in doubt, to the surrender value of the forfeited policy ascertained in the manner provided by Article 34 and Schedule 6.

[<sup>F25</sup>(1A) for the purposes of paragraph (1), “notice” means—

- (a) a notice required by Article 29 and served before 1st December 2001; or
- (b) a notice required by Article 29 as it continues to have effect by virtue of the Financial Services and Markets Act 2000 (Consequential Amendments and Savings) (Industrial Assurance) Order 2001, and served on or after 1st December 2001.]

(2) Subject to paragraph (3), the amount of a free paid-up policy so issued shall not be less than such as may be determined in accordance with the rules contained in Schedule 6, and shall be ascertained at the date when the premium following the last premium paid became due.

(3) The amount of the free paid-up policy shall not exceed the difference between the amount of the forfeited policy (inclusive of any bonus added thereto) and the amount which would be assured by a corresponding policy at the same premium effected on the life of the same person according to the age of that person at his birthday next following the date of forfeiture.

*Para. (4) rep. by SI 2001/3647*

(5) Where the rules of a collecting society or the conditions of a policy are such as would confer on the owner of the policy in case of forfeiture rights more favourable to the owner of the policy than those conferred by this Article, nothing in this Article shall prevent the owner of the policy from claiming under those rules or conditions instead of under this Article.

**Annotations:**

**F25** SI 2001/3647

**Substitution of policies**

**31.**—(1) Where the owner of an industrial assurance policy agrees to accept a new policy in substitution therefor, the collecting society or industrial assurance company shall pay to the owner of the policy the surrender value (to be ascertained in the manner provided by Article 34 and Schedule 6) of the old policy or shall issue to him a free paid-up policy of equivalent value, unless the value of the substituted policy, calculated in accordance with the rules set out in Schedule 6, at the date of the substitution is equal to or exceeds such surrender value.

(2) In any such case, the society or company shall furnish to the owner of the policy, with the new policy and new premium receipt book, a statement setting forth the rights of the owner under this Article, and containing an account certified by the secretary of the collecting society or industrial assurance company, or other officer appointed for the purpose, showing the surrender value of the old policy and the value of the new policy.

(3) Where a substituted policy is so issued and the value thereof is equal to or exceeds the surrender value of the old policy, then, for the purpose of determining whether the owner is entitled to a free paid-up policy or surrender value under Article 30, the substituted policy shall be deemed to have been issued at the date at which the old policy was issued, and premiums shall be deemed to have been paid on the substituted policy in respect of the period between that date and the date at which the substituted policy was actually issued.

**Transfers from one society or company to another**

**32.**—<sup>[F26]</sup>(1) A person assured with an industrial assurance company shall not, without his written consent or, in the case of a person under the age of 18, without the written consent of his parent or other guardian, be transferred from the company to another company or to a collecting society except under an insurance business transfer scheme under Part VII of the Financial Services and Markets Act 2000.]

(2) A consent under paragraph (1) shall be in the prescribed form and shall have annexed to it a document in the prescribed form (to be furnished by the collecting society or industrial assurance company to which the transfer is to be made) setting out—

- (a) the terms of, and rights under, the existing policy;
- (b) the terms of, and rights under, the policy to which the assured will become entitled on transfer;
- (c) the consideration (if any) which has been or is to be paid for the transfer; and
- (d) the person to whom such consideration has been or will be paid.

<sup>[F26]</sup>(2A) For the purposes of paragraph (2) “prescribed” means prescribed by—

- (a) rules made by the Financial Services Authority under section 138 of the Financial Services and Markets Act 2000; or
- (b) any provision having effect as such a rule as a result of the Financial Services and Markets Act 2000 (Transitional Provisions and Savings) (Rules) Order 2001.]

(3) The collecting society or industrial assurance company to which the assured is sought to be transferred shall furnish to the person by whom such consent as aforesaid is signed a copy of the consent and of the document annexed thereto, and shall, within seven days from the date when the consent is signed, give to the society or company from which the assured is sought to be transferred notice of the proposed transfer containing full particulars of the name and address of the assured and the number of his policy, together with the consent and the document annexed to it.

(4) As from the date of the notice mentioned in paragraph (3), the . . . industrial assurance company from which the person is sought to be transferred shall cease to be under any liability with respect to the policy in question and shall not be required to serve any notice of forfeiture of the policy in accordance with Article 29<sup>[F26]</sup> as it has effect by virtue of the Financial Services and Markets Act 2000 (Consequential Amendments and Savings) (Industrial Assurance) Order 2001].

**Annotations:**

F26 SI 2001/3647

**Payment of claims**

33. Where a claim arising under a policy of industrial assurance is paid, no deductions shall be made on account of any arrears of premiums due under any other policy<sup>[F27]</sup> (regardless of whether that policy was effected before or after 1st December 2001)].

**Annotations:**

F27 SI 2001/3647

**Value of policies**

34.—(1) Where, for the purposes of this Order, the value of a policy<sup>[F28]</sup> of industrial assurance] (including an illegal policy and a policy beyond the legal powers of a collecting society or industrial assurance company<sup>[F28]</sup> or the person who effected it]) has to be ascertained, the value of the policy shall be calculated in accordance with the rules set out in Schedule 6.

(2) The surrender value of such a policy shall be an amount equal to 75 per cent. of the value of the policy so calculated.

**Annotations:**

F28 SI 2001/3647

**Rights of owners of certain endowment policies**

35.—(1) This Article applies to—

- (a) any policy issued, or deemed under paragraph 5 of Schedule 9 to have been issued,<sup>[F29]</sup> before 1st December 2001] by a registered friendly society or an industrial assurance company in accordance with paragraph 1(1)(b) of that Schedule (endowment policy on life of parent, child, grandparent, grandchild, brother or sister); and

- (b) any other endowment policy issued<sup>[F29]</sup> before 1st December 2001] by a registered friendly society or an industrial assurance company on the life of a child under the age of 10 years.

(2) Where, under any policy to which this Article applies, not less than one year's premiums have been paid, the owner of the policy shall be entitled at any time within one year from the date on which the last premium was paid to surrender the policy and to claim either—

- (a) a free paid-up policy in conformity with the rules contained in Schedule 7; or  
 (b) payment of a surrender value equal to 90 per cent. of the value of the sum or sums payable under such a free paid-up policy calculated in accordance with the rules contained in Schedule 6, Part III;

and the society or company shall comply with a claim so made.

<sup>[F29]</sup>(3) Subject to paragraph (3A)—

- (a) if, on or after 1st December 2001, a collecting society or industrial assurance company reprints or amends a premium receipt book issued in respect of a policy to which this Article applies, the society or company must cause to be set out in any such book—
- (i) the matters specified in this Article and in Schedule 7 to this Order (as that Schedule has effect on and after 1st December 2001), or
- (ii) if the Financial Services Authority consents, a statement setting out the effect of those provisions;
- (b) if on or after 1st December 2001 a society or company does not amend or reprint a premium receipt book issued in respect of a policy to which this Article applies, the matters which must be set out in that book remain the matters specified by paragraph (3) of this Article as it had effect before that date.]

<sup>[F29]</sup>(3A) If a collecting society or industrial assurance company ceases to provide a premium receipt book in respect of a policy to which this Article applies, the society or company must give a written statement of the matters specified in Schedule 7 to this Order to the owner of that policy.]

**Annotations:**

**F29** SI 2001/3647

### *Disputes*

**<sup>[F30]</sup>Disputes**

**36.** Any dispute<sup>[F31]</sup> arising under or in connection with a policy of industrial assurance] between an industrial assurance company and—

- (a) any person assured; or  
 (b) any person claiming through a person assured or under or in respect of any policy, or under the rules of the company, or under this Order,

may, notwithstanding any provision of the rules to the contrary, be determined by the county court.]

**Annotations:**

**F30** 1992 c. 40

**F31** SI 2001/3647

*Provisions as to collectors, etc.*

**[<sup>F32</sup>Disabilities of collectors etc.**

**37.**—(1) A collector of an industrial assurance company shall not be a member of the board of directors, or hold any other office in the company except that of superintending collectors within a specified area.

(2) A collector or superintendent shall not be present at any meeting of the company.]

**Annotations:**

**F32** 1992 c. 40

**Restriction on employment of persons to procure new business**

**38.**—(1) A collecting society or industrial assurance company shall not, nor shall any person employed by such a society or company, employ any person not being a person in the regular employment of the society or company to procure or endeavour to procure any person to enter into a contract of industrial assurance, and a person not regularly in the employment of such a society or company shall not procure or endeavour to procure any person to enter into such a contract.

(2) For the purposes of this Article, references to regular employment include regular part-time as well as regular whole-time employment.

*Amalgamations, transfers and conversions*

*Art. 39 rep. by 1992 c. 40*

**Transfer of business from company to society**

**40.** [<sup>F33</sup>Sections 49 and 50 of the Insurance Companies Act 1982], as modified in relation to industrial assurance business by [<sup>F34</sup> section [<sup>F33</sup> 82(5)]] (scheme for transfer of long term business from one industrial assurance company to another) shall, with the necessary modifications, apply to the transfer of industrial assurance business from an industrial assurance company to a collecting society.

**Annotations:**

**F33** 1982 c. 50

**F34** 1980 c. 25

*Art. 41 rep. by 1992 c. 40*

*Offences*

**Offences by collecting societies**

**42.**—[<sup>F35</sup>(1) Subject to paragraph (1A), any contravention by a collecting society of any provision of this Order which has effect on and after 1st December 2001 is to be treated as if it were a contravention of a requirement imposed under the Financial Services and Markets Act 2000 (with the effect that Part XIV of that Act applies).]

[<sup>F35</sup>(1A) A contravention of the kind mentioned in paragraph (1) is not actionable under section 150 of the Financial Services and Markets Act 2000 (actions for damages).

(1B) Nothing in paragraph (1) prejudices the operation of section 16 of the Interpretation Act 1978 in relation to any legal proceedings in respect of, or any penalty which may be imposed in relation to, a contravention of any provision of this Act committed before 1st December 2001.]  
*Paras. (2), (3) rep. by SI 2001/3647*

**Annotations:**

F35 SI 2001/3647

**Offences by industrial assurance companies**

43.—<sup>[F36]</sup>(1) Subject to paragraph (1A), any contravention by an industrial assurance company of—

- (a) any provision of this Order which has effect on and after 1st December 2001,
- (b) any provision of Part VI of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (as applied to Northern Ireland before that date by any Order in Council under section 65 of that Act), or
- (c) any regulation made under section 57 of that Act which was applied to Northern Ireland before that date by any Order in Council under section 65 of that Act,

is to be treated as if it were a contravention of a requirement imposed under the Financial Services and Markets Act 2000 (with the effect that Part XIV of that Act applies).]

<sup>[F36]</sup>(1A) A contravention of the kind mentioned in paragraph (1) is not actionable under section 150 of the Financial Services and Markets Act 2000 (actions for damages).

(1B) Nothing in paragraph (1) prejudices the operation of section 16 of the Interpretation Act 1978 in relation to any legal proceedings in respect of, or any penalty which may be imposed in relation to, a contravention of any provision of this Act committed before 1st December 2001.]  
*Paras. (2), (3) rep. by SI 2001/3647*

(4) So far as regards Article 35(2), this Article does not prejudice any liability of a company subsisting otherwise than by virtue of this Article.

**Annotations:**

F36 SI 2001/3647

**Offences by registered friendly societies other than collecting societies**

<sup>[F37]</sup>44]. <sup>[F37]</sup>Any contravention by a registered friendly society, other than a collecting society, of the provisions of Article 35(2), (3) or (3A), as they have effect on and after 1st December 2001, is to be treated as if it were a contravention of a requirement imposed under the Financial Services and Markets Act 2000 (with the effect that Part XIV of that Act applies).]

**Annotations:**

F37 SI 2001/3647

**Offences by collectors, etc.**

45. Any collector of a collecting society or industrial assurance company, or any other person, who contravenes or fails to comply with—

- (a) any provision of this Order; or
- (b) any regulation made under Article 49(1)(d) for the purposes of Article 21,

affecting such a collector or other person shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>[F38]</sup> level 3 on the standard scale].

**Annotations:**

**F38** 1984 NI 3

**Supplementary matters connected with offences**

**46.**—(1) Any body of persons, not being a collecting society or an industrial assurance company, which carries on industrial assurance business shall, without prejudice to any penalty to which it may thereby become liable, be liable to pay to the owner of any policy of industrial assurance issued by that body such sum as an industrial assurance company which has knowingly issued an illegal policy is under this Order liable to pay to the owner of that illegal policy.

(2) Notwithstanding any limitation on the time for the taking of proceedings contained in any Act or Measure, summary proceedings for offences under this Order or the Friendly Societies Act, where the society by or in respect of which, or the person by or in respect of when, the offence is alleged to have been committed is a collecting society or an officer of such a society, may be commenced at any time within one year of the first discovery thereof by the<sup>[F39]</sup> relevant authority], but not in any case after more than three years from the commission of the offence.

<sup>[F39]</sup>(2A) In paragraph (2) above “relevant authority” means—

- (a) in relation to a time before Schedule 19 to the Friendly Societies Act 1992 came into force, the Registrar; and
- (b) in relation to a time after the coming into force of that Schedule, the Commission.]

(3) The court by which a fine is imposed in pursuance of this Order (except Article 43) may direct that the whole or any part thereof shall be applied in or towards the payment of the costs of the proceedings.

**Annotations:**

**F39** 1992 c. 40

**Penalties for falsification**

**47.** If any person wilfully makes, orders, or allows to be made any entry or erasure in, or omission from, a collecting book or premium receipt book with intent to falsify that book or to evade any of the provisions of this Order, he shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding<sup>[F40]</sup> level 3 on the standard scale], or to both.

**Annotations:**

**F40** 1984 NI 3

*Miscellaneous*

**Notices**

**48.** Where any notice is required by this Order to be served upon any member or other person, the notice shall be in writing, and either delivered or sent by post to him, or, in the case of a notice of default, so delivered or sent or left at his last known place of abode.

## Regulations

49.—(1) The Department may make regulations—

- (a) for prescribing anything which under this Order is to be prescribed;
- (b) subject to the approval of the Department of Finance, for imposing fees;

*Sub#para. (c) rep. by 1992 c. 40*

(d) with respect to the form of premium receipt books to be provided for the purposes of Article 21, and to the use of such books and the insertion of receipts in them, and, without prejudice to the generality of this sub-paragraph, such regulations may—

- (i) provide for the prohibition or restriction in any prescribed circumstances of the use of a single premium receipt book for payments in respect of two or more policies;
- (ii) provide for the insertion in premium receipt books provided under Article 21 of statements approved by the Department explaining the effect of any regulations made under section 6 of the Decimal Currency Act 1969 ;
- (iii) prescribe the information to be entered in premium receipt books for the purpose of explaining the effect of the adoption by a collecting society or an industrial assurance company of a scheme prescribed or approved in pursuance of section 6(3) of the said Act of 1969;

(e) generally for carrying this Order into effect.

(2) All regulations made under this Article shall be laid before the Assembly as soon as may be after they are made, and if an address is presented to the Secretary of State by the Assembly within the statutory period after the regulations are so laid praying that the regulations may be annulled, the Secretary of State may by order annul the regulations; and regulations so annulled shall forthwith become void, but without prejudice to the validity of anything which in the meantime may have been done under them, or to the making of new regulations.

*Arts. 50, 51 rep. by 1992 c. 40*

## Power to extend references in this Order and other legislation to residence in, or outside, the United Kingdom and the Isle of Man

52.—(1) If provision for the payment of death grants corresponding to the provision therefor made by or under the enactments relating to social security is made by or under the law of a country or place outside Northern Ireland, the Secretary of State may by order provide for extending the application of—

- (a) Article 15(3) of, or paragraph 1 of Schedule 3 to, this Order; or

*Sub#para. (b) rep. by 1992 c. 40*

or for restricting the application of—

- (i) paragraph 1 or 2 of Schedule 9 to this Order; or

*Head (ii) rep. by 1992 c. 40*

subject to any modifications necessitated by differences between any provision made by or under those enactments and the corresponding provision, so as to respectively include or exclude insurances where the funeral expenses in question are those, or the life or death in question is that, of a person who, at the time of the proposal, is ordinarily resident in that country or place, and for any consequential amendments of this Order or the Friendly Societies Act.

(2) The Secretary of State shall not be recommended to make an order under this paragraph until a draft thereof has been laid before the Assembly for the statutory period, and, if the Assembly within that period resolves that further proceedings be not taken in relation thereto, no further proceedings shall be so taken, but without prejudice to the preparation of a fresh draft.

*Article 53, with Schedule 8, effects amendments*

**Saving and transitional provisions**

**54.** The saving and transitional provisions specified in Schedule 9 shall have effect for the purposes of this Order.

*Article 55, with Schedule 10, effects repeals*

**Changes to legislation:**

There are currently no known outstanding effects for the Industrial Assurance (Northern Ireland) Order 1979.