



Insurance Companies Amendment Act 1973

1973 CHAPTER 58

Supplementary

52 Offences and penalties

- (1) Any person who—
- (a) makes default in complying with sections 7 to 9 or 35(1) above or with any requirement imposed under section 13 above; or
 - (b) in purported compliance with a requirement imposed under section 20 above furnishes information which he knows to be false in a material particular or recklessly furnishes information which is false in a material particular ; or
 - (c) causes or permits to be included in—
 - (i) any notice, statement or certificate served or furnished under or by virtue of section 3(6), 6(1) or 7(4) above;
 - (ii) any document deposited with the Secretary of State under section 5(4) or 18(4) above; or
 - (iii) any statement sent out under section 26(3)(b) above,a statement which he knows to be false in a material particular or recklessly causes or permits to be so included any statement which is false in a material particular,
- shall be guilty of an offence.
- (2) Any person guilty of an offence under subsection (1) above or under section 41, 42 or 43 above shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both ;
 - (b) on summary conviction, to a fine not exceeding £400
- (3) Subject to the following provisions of this section—

- (a) any insurance company which makes default in complying with, or with a requirement imposed under, any provision of this Act, being a default for which no penalty is provided by the foregoing provisions of this section; and
- (b) any other person who makes default in complying with, or with a requirement imposed under, section 6, 8(6), 10, 14, 15, 16, 17, 20, 21 26(4), 27(5) or 34(1) above,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £400.

- (4) Where a person continues to make default in complying with—
 - (a) section 5(4), 18(4) or 39(3) above, section 8(1) of the Act of 1958 or section 77(1) of the Act of 1967 ; or
 - (b) a requirement imposed under section 19 or 20(1) above,
 after being convicted of that default he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £40 for each day on which the default so continues.
- (5) A person shall not be guilty of an offence by reason of his default in complying with section 34 or 35(1) above if he proves that he did not know that the acts or circumstances by virtue of which he became or ceased to be a controller of the body in question were such as to have that effect.
- (6) Where a person is charged with an offence in respect of his default in complying with a requirement imposed under section 20(2) or (3) above to produce any books or papers it shall be a defence to prove that they were not in his possession or control and that it was not reasonably practicable for him to comply with the requirement.
- (7) In section 89 of the Act of 1967 (criminal liability of director etc. of body corporate) after the word " director " there shall be inserted the words " chief executive " ; and that section and sections 88, 90 and 91 of that Act (other provisions about criminal proceedings under Part II of that Act) shall have effect as if this Act were contained in Part II of that Act.
- (8) In sections 60(4), 84(2) and 85(1) of the Act of 1967 (penalty for offences under that Act) for the words following " on summary conviction " there shall be substituted the words " to a fine not exceeding £400 " , but this subsection does not affect the penalty that can be imposed under those sections in respect of an offence committed before the passing of this Act.

53 Regulations and orders

- (1) Section 34 of the Act of 1958 (which provides that regulations for the purposes of that Act are to be made by the Secretary of State and are to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament) shall apply also in relation to this Act.
- (2) The power to make orders under sections 1 and 28 above shall be exercisable by statutory instrument and no such order shall be made unless a draft of it has been approved by resolution of each House of Parliament.

54 Minor and consequential amendments and repeals

- (1) The enactments mentioned in Schedule 1 to this Act shall have effect subject to the amendments there specified, being minor amendments and amendments consequential on the provisions of this Act.
- (2) Any functions of the Secretary of State under the Act of 1958 and Part II of the Act of 1967 shall cease to be exercisable concurrently by the Board of Trade.
- (3) The enactments mentioned in Schedule 2 to this Act (which include spent enactments) are hereby repealed to the extent specified in the third column of that Schedule.
- (4) The repeal of sections 65, 68 and 80 and subsection (1)(f) of section 109 of the Act of 1967 does not affect—
 - (a) any requirement or direction imposed or given under any of those sections before the passing of this Act; or
 - (b) the giving of a direction under the said section 68 in any case in which a notice has been served under subsection (3) of that section before the passing of this Act; or
 - (c) the exercise by an officer of any powers under the said section 109 in a case in which he has been authorised before the passing of this Act to exercise them ;and the Act of 1967 shall have effect in relation to any such requirement, direction or powers as if this Act had not been passed.
- (5) Any order under paragraph 10 of Schedule 2 to the Act of 1958 or section 92 of the Act of 1967 which is in force immediately before the passing of this Act shall have effect as if made under section 38 above ; and any modification or alteration which is then in force under section 4(5), 7(2) or 34(5) of the Act of 1958 shall have effect as if made by an order under the said section 38.
- (6) Any order under section 93 of the Act of 1967 which is in force immediately before the passing of this Act shall have effect as if made under section 37 above for the purposes of sections 7 to 9 above.
- (7) Any regulations made by the Industrial Assurance Commissioner by virtue of paragraph 6(2) of Schedule 2 to the Act of 1958 which are in force immediately before the passing of this Act shall, so far as they could have been made under subsection (1) of section 39 above, have effect as if made under that subsection.
- (8) The foregoing provisions of this section are without prejudice to section 38 of the Interpretation Act 1889 (effect of repeals).

55 Interpretation

- (1) In this Act—
 - " the Act of 1958 " means the Insurance Companies Act 1958;
 - " the Act of 1967 " means the Companies Act 1967 ;
 - " contract of insurance " includes a contract to pay an annuity on human life ;
 - " ordinary long-term insurance business " has the meaning given in section 59(6) of the Act of 1967 ;
 - " 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 ;

" 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;

" valuation regulations " means regulations under section 32 above.

- (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 7(1)(b) above and in sections 25(2) and 30(7) above include references to a fund or funds maintained under section 3(1) of the Act of 1958.
- (3) The provisions of section 33(1) and (6) of the Act of 1958 and sections 94 and 102(2) to (4) of the Act of 1967 (interpretation of Act of 1958 and Part II of Act of 1967) shall apply also in relation to this Act.
- (4) In any provision of this Act except section 31 and in the Act of 1967 " controller ", " manager " and " chief executive " have the meaning given in section 2 above.
- (5) Any reference in sections 1, 2(1) to (4), (6) and (7) and 12(4) above and in sections 60 to 69 and section 104 of the Act of 1967 to an incorporated company or a company shall include a reference to any body corporate other than a registered society.

56 Application to Northern Ireland

- (1) This Act shall apply to Northern Ireland subject to the modifications specified in Schedule 3 to this Act.
- (2) This Act shall, so far as it relates to matters within the powers of the Parliament of Northern Ireland, be deemed for the purposes of section 6 of the Government of Ireland Act 1920 to be an Act passed before the appointed day within the meaning of that section.

57 Short title, citation and commencement

- (1) This Act may be cited as the Insurance Companies Amendment Act 1973.
- (2) The Insurance Companies Acts 1958 to 1967 and this Act may be cited together as the Insurance Companies Acts 1958 to 1973.
- (3) Section 11 above shall not take effect until the first regulations made for the purposes of that section come into operation.
- (4) Sections 26 and 27 above and the repeal of sections 11 and 12 of the Act of 1958 shall not take effect until the expiration of the period of six months beginning with the date of the passing of this Act; and, in relation to any amalgamation or transfer in respect of which proceedings under the said section 11 have been begun before the expiration of that period, that Act and the Act of 1967 shall continue to have effect as if this Act had not been passed.
- (5) The repeal of section 17(2) and (3) of the Act of 1958 and Schedules 3 and 4 to that Act shall not take effect until the date on which the first rules made by virtue of section 30(5) above come into operation ; and the provisions of this Act relating to winding up shall not affect any winding up commenced before that date.
- (6) The repeal of section 25 of the Act of 1958 shall not take effect until the date on which the first regulations under section 41 above come into operation.

- (7) Sections 33 to 35 above and the repeal of sections 82 and 83 of the Act of 1967 shall not take effect until the date on which the first regulations made for the purposes of sections 33 to 35 come into operation, and so long as the said sections 82 and 83 continue in force the Act of 1967 shall have effect in relation to them as if this Act had not been passed.
- (8) Sections 44 to 46 above shall not take effect until the first regulations under subsection (5) of the said section 44 come into operation.