

SCHEDULE 3

Article 5

PART I

CONSEQUENTIAL AMENDMENTS AND REPEALS: PRIMARY LEGISLATION

The Friendly Societies Act 1955 (c. 19)

1. Section 6 of the Friendly Societies Act 1955 (extension of powers in connection with sickness benefits) is repealed.

The Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65)

2.—(1) Section 54 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (protection of life policies (industrial assurance and collecting societies)) is amended as follows.

(2) In subsection (1), in paragraph (b) after “policies of assurance upon human life effected” insert “before 1st December 2001”.

(3) After subsection (1) insert—

“(1A) In subsection (1), “collecting society” means a friendly society which, at the time when the policy in question was effected, carried on industrial assurance business within the meaning of section 1 of the Industrial Assurance Act 1923.”.

(4) In subsection (9)—

- (a) for “An appeal shall lie to the Commissioner from” substitute “A complaint may be made to the ombudsman scheme in relation to”;
- (b) for “where the Commissioner allows an appeal” substitute “where an ombudsman determines a complaint in favour of the complainant”; and
- (c) for the second paragraph of that subsection substitute—

“A complaint to the ombudsman scheme made under this subsection is to be treated as if it were a complaint to which the voluntary jurisdiction of the scheme applies, and the scheme operator may make such adaptations of the voluntary jurisdiction rules as appear to it to be necessary in the circumstances for the determination of a complaint made under this subsection.”.

(5) After subsection (9) insert—

“(9A) For the purposes of subsection (9)—

“voluntary jurisdiction of the scheme” has the meaning given in section 227(12) of the Financial Services and Markets Act 2000, and

“voluntary jurisdiction rules” has the meaning given in section 227(3) of that Act.”.

3.—(1) In section 55 of that Act (protection of life policies (friendly societies other than collecting societies)), for subsection (1) substitute—

(i) This section applies to—

- (a) policies of assurance upon human life, in respect of which there are separate premiums, effected before the 1st December 2001 with a friendly society which was not a collecting society, and
- (b) policies of assurance upon human life effected on or after the 1st December 2001 with a friendly society.”.

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(2) After subsection (1) insert—

“(1A) In subsection (1)(a), “collecting society” means a friendly society which at the time when the policy in question was effected, carried on industrial assurance business within the meaning of section 1 of the Industrial Assurance Act 1923.”.

4.—(1) Section 56 of that Act (adjustment of rights under policies protected) is amended as follows.

(2) In subsection (5), for “the Commissioner” substitute “the actuary”.

(3) After subsection (5) insert—

“(5A) In subsection (5), “the actuary” means an independent actuary whose appointment has been agreed by the parties to the policy.”.

5.—(1) Section 57 of that Act (provisions supplementary to the three preceding sections) is amended as follows.

(2) Subsection (1) is repealed.

(3) For subsection (5)(1) substitute—

“(5) Subject to subsection (5A), any contravention by an industrial assurance company, a collecting society, or a friendly society of provisions of regulations under this section 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).”.

(4) After subsection (5) insert—

“(5A) A contravention of the kind mentioned in subsection (5) is not actionable under section 150 of the Financial Services and Markets Act 2000 (actions for damages).

(5B) Nothing in subsection (5) 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 the kind mentioned in that subsection committed before 1st December 2001.”.

6.—(1) Section 59 of that Act (interpretation and extent of Part VI) is amended as follows.

(2) Subsection (1) is repealed.

(3) In subsection (2)—

(a) omit the definition of “the Commissioner”;

(b) before the definition of “owner” insert—

““collecting society” means a friendly society which—

(a) immediately before 1st December 2001 carried on industrial assurance business, within the meaning of section 1 of the Industrial Assurance Act 1923, and

(b) after that date is subject to an existing liability or a liability which may accrue under a policy effected in the course of that business to which the provision of this Part apply;

“friendly society” has the meaning given by section 116 of the Friendly Societies Act 1992(2);

(1) Subsection (5) was repealed in relation to industrial assurance companies by the Companies Act 1967 (c. 81), section 130(4), Schedule 8, Part V, and provision similar to subsection (5) was made by section 86(1)(a) of that Act in relation to any contravention by an industrial assurance company of regulations made under section 57 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951. Section 86 of the Companies Act 1967 is repealed by this Order.

(2) 1992 c. 40.

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“industrial assurance company” and “company” means a person other than a friendly society who—

- (a) immediately before 1st December 2001 carried on industrial assurance business, within the meaning of section 1 of the Industrial Assurance Act 1923, and
- (b) after that date is subject to an existing liability or a liability which may accrue under a policy effected in the course of that business to which the provisions of this Part apply;

“ombudsman scheme” has the meaning given in section 225(3) of the Financial Services and Markets Act 2000;”.

(4) After the definition of “policy” insert—

““society” means, as the case may be—

- (a) a collecting society, or
- (b) a friendly society which is subject to an existing liability or a liability which may accrue under a policy to which section 55 applies.”.

(5) After subsection (2) insert—

“(2A) References in this Act to section 23 of the Industrial Assurance Act 1923 are to be treated as references to that section as it has effect, notwithstanding the repeal of that Act, by virtue of the Financial Services and Markets Act 2000 (Consequential Amendments and Savings) (Industrial Assurance) Order 2001.”.

The Insurance Companies Act 1958 (c. 72)

7. The Insurance Companies Act 1958 is repealed.

The Companies Act 1967 (c. 81)

8. The Companies Act 1967 is repealed.

The Friendly and Industrial and Provident Societies Act 1968 (c. 55)

9. In section 23 of the Friendly and Industrial and Provident Societies Act 1968 (short title, citation, construction and extent), in subsection (2) omit “This Act and the Industrial Assurances Acts 1923 to 1958, may be cited together as the Industrial Assurance Acts 1923 to 1968”.

The Decimal Currency Act 1969 (c. 19)

10.—(1) The Decimal Currency Act 1969 is amended as follows.

(2) In subsection (9) of section 6 (payments under friendly society and industrial assurance contracts) for the definition of “the appropriate authority”⁽³⁾ substitute—

““the appropriate authority” means the Treasury;”

(3) In subsection (11) of section 6—

- (a) in sub-paragraph (i)⁽⁴⁾ of paragraph (b) for “the Friendly Societies Commission and the Chief Registrar of Friendly Societies” substitute “the Treasury”; and

⁽³⁾ The definition of “the appropriate authority” was amended by S.I. 1995/710, regulation 5.

⁽⁴⁾ Paragraph (b)(i) was amended by S.I. 1995/710, regulation 5.

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- (b) in sub-paragraph (iii)(5) of paragraph (b) after “the Industrial Assurance (Northern Ireland) Order 1979” insert “as that Order has effect, notwithstanding its revocation by section 416 of the Financial Services and Markets Act 2000, by virtue of the Financial Services and Markets Act 2000 (Consequential Amendments and Savings) (Industrial Assurance) Order 2001”.

(4) In subsection (5) of section 7 (provisions supplementary to section 6), for the words from the beginning of that subsection to “include power by any such regulations” substitute “The general rule-making power under section 138 of the Financial Services and Markets Act 2000, as applied by section 8 of the Industrial Assurance and Friendly Societies Act 1948 as that section has effect by virtue of the Financial Services and Markets Act 2000 (Consequential Amendments and Savings) (Industrial Assurance) Order 2001, includes power”.

The Insurance Companies Amendment Act 1973 (c. 58)

11. Section 51(6) of the Insurance Companies Amendment Act 1973 (withdrawal of statutory deposits by collecting societies) is repealed.

The Friendly Societies Act 1974 (c. 46)

12. The following provisions of the Friendly Societies Act 1974 are repealed—

- (a) section 74;
- (b) Schedule 6.

The Friendly Societies Act 1992 (c. 40)

13. In section 99 of the Friendly Societies Act 1992 (insurance of lives of children under 10) after subsection (4)(7) insert—

“(5) For the purposes of this section—

- (a) “industrial assurance company” means a person, other than a friendly society, who immediately before the repeal of the Industrial Assurance Act 1923, carried on industrial assurance business, and after that repeal is subject to an existing liability or a liability which may accrue under any policy effected in the course of that business;
- (b) “industrial assurance business” means business which, immediately before the repeal of the Industrial Assurance Act 1923, fell within section 1(2) of that Act.”.

The Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)

14.—(1) Section 19 of the Trade Union and Labour Relations (Consolidation) Act 1992 (application of certain provisions relation to industrial assurance of friendly societies) is amended as follows.

(2) After subsection (3) insert—

“(4) In this section “industrial assurance company” has the meaning it has in section 99 of the Friendly Societies Act 1992(8).”.

(5) Paragraph (b)(iii) was amended by S.I. 1979/1574, article 53, Schedule 8.

(6) Section 51 was amended by S.I. 1995/710, regulation 5.

(7) Subsection (4) of section 99 was omitted by S.I. 2001/2617, Schedule 3, paragraph 105(c).

(8) The definition of “industrial assurance company” in subsection (5) of section 99 of the Friendly Societies Act 1992 is inserted by this Order, Schedule 3, paragraph 13.

PART II

CONSEQUENTIAL AMENDMENTS, REVOCATIONS AND SAVINGS: SECONDARY LEGISLATION

The Industrial Assurance (Individual Transfer) Regulations 1928 (S.I. 1928/580)

15. The Industrial Assurance (Individual Transfer) Regulations 1928 have effect after commencement in relation to the Channel Islands.

The Industrial Assurance (Premium Receipt Books) Regulations 1948 (S.I. 1948/2270)

16. The Industrial Assurance (Premium Receipt Books) Regulations 1948 have effect after commencement in relation to the Channel Islands.

The Reserve and Auxiliary Forces (Protection of Industrial Assurance &c Policies) Regulations 1951 (S.I. 1951/1407)

17.—(1) The Reserve and Auxiliary Forces (Protection of Industrial Assurance &c Policies) Regulations 1951 are amended as follows.

(2) In paragraph (2) of regulation 1—

- (a) commit the definition of “the Commissioner”;
- (b) before the definition of “owner” insert—

“the ombudsman” means a person who—

- (a) is a member of the panel established under paragraph 4 of Schedule 17 to the Financial Services and Markets Act 2000, to act as ombudsmen for the purposes of the ombudsmen scheme, and
- (b) has considered or determined an application made to the ombudsman scheme under Part VI of the Act;

“the ombudsman scheme” has the same meaning as in the Financial Services and Markets Act 2000;”.

(3) After paragraph (3) of regulation 2 insert—

“(4) In relation to a notice served under section 23 of the Industrial Assurance Act 1923 after the 30th November 2001, references in these Regulations to section 23 of the Industrial Assurance Act 1923 are references to that section as it has effect (notwithstanding the repeal of the 1923 Act) by virtue of the Financial Services and Markets Act 2000 (Consequential Amendments and Savings) (Industrial Assurance) Order 2001.”.

(4) In paragraphs (1) and (2) of regulation 3 for “the Commissioner” substitute “the ombudsman scheme”.

(5) In regulation 6—

- (a) for “the Commissioner” substitute “the ombudsman scheme”;
- (b) for “addressed to him at 17, North Audley Street, London, W.1,” substitute “sent to the Financial Ombudsman Service at South Quay Plaza, 183 Marsh Wall, London E14 9SR;”;
- and
- (c) for “the appeal is made” substitute “the complaint is made”.

(6) In regulation 7—

- (a) for “on appeal being duly made” substitute “on a complaint being duly made”;

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- (b) for “the Commissioner” substitute “the ombudsman”;
 - (c) for “he may make an order requiring” substitute “he make direct”; and
 - (d) for “the appellant” substitute “the complainant”.
- (7) In regulation 8—
- (a) in paragraph (1)(a) for “a right to appeal to the Commissioner” substitute “a right to make a complaint to the ombudsman scheme”;
 - (b) in paragraph (1)(b) for “appeal” substitute “complaint”; and
 - (c) for paragraph (2), substitute—
 - “(2) For the purpose of the preceding paragraph an application or complaint shall be deemed to be pending where the application or complaint has been duly made and the applicant or complainant has not been notified in the form provided for by the Regulations of the decision of the company or society, or notified of the determination of the ombudsman.”.
- (8) In regulation 9—
- (a) for the words from the beginning of the regulation to the end of the paragraph (b), substitute—
 - “Where, in relation to any policy of assurance to which section 54 of the Act applies, the time for making an application to the company or society or for making a complaint to the ombudsman scheme has expired, the owner of the policy, or anyone on his behalf, may refer a complaint to the ombudsman scheme, and if it appears to the ombudsman that—
 - (a) there were good reasons for the failure to make the application to the company or society or to make the complaint to the ombudsman scheme within the required time and there has been no undue delay in referring a complaint under this regulation; and
 - (b) if an application or a complaint had been made within the said time it would have been granted or determined in favour of the complainant.”;
 - (b) for “he may make an order requiring” substitute “he may direct”;
 - (c) for “appeal” substitute “complaint”; and
 - (d) for “allowed” substitute “determined in favour of the complainant”.
- (9) In the Schedule to the Regulations, in Form A, B, C, D and E(9)—
- (a) for “the Friendly Societies Commission at 17, North Audley Street, London W.1” substitute “the Financial Ombudsman Service at South Quay Plaza, 183 Marsh Wall, London E14 9SR”; and
 - (b) for “the Commission” substitute “the ombudsman scheme”.

The Reserve and Auxiliary Forces (Protection of Friendly Society Life Policies) Regulations 1951 (S.I. 1951/1408)

18.—(1) The Reserve and Auxiliary Forces (Protection of Friendly Society Life Policies) Regulations 1951 are amended as follows.

- (2) In paragraph (2) of regulation 1—
 - (a) omit the definition of “Chief Registrar”, and

(9) In Forms A, B, C, D and E the references to the Friendly Societies Commission and the Commission were substituted by S.I. 1995/710, regulation 5.

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- (b) before the definition of “owner” insert—
- ““the ombudsman” means a person who—
- (a) is a member of the panel established under paragraph 4 of Schedule 17 to the Financial Services and Markets Act 2000, to act as ombudsmen for the purposes of the ombudsman scheme, and
 - (b) has considered or determined an application made to the ombudsman scheme under Part VI of the Act;
- “the ombudsman scheme” has the same meaning as in the Financial Services and Markets Act 2000;”.
- (3) In regulation 5—
- (a) for “An appeal to the Chief Registrar” substitute “A complaint to the ombudsman scheme”; and
 - (b) for “addressed to him at 17, North Audley Street, London W.1,” substitute “sent to the Financial Ombudsman Service at South Quay Plaza, 183 Marsh Wall, London E14 9SR,”.
- (4) In regulation 6, for the words from the beginning to “he shall make an order” substitute “Where the ombudsman determines a complaint duly made under subsection (3) of section 55 in favour of the complainant, the determination shall include a direction”.
- (5) In regulation 7—
- (a) for the words from the beginning of the regulation to the end of paragraph (b), substitute—

“Where, in relation to any policy to which section 55 of the Act applies, the time for making an application to the society or a complaint to the ombudsman scheme has expired, the owner of the policy, or anyone on his behalf, may refer a complaint to the ombudsman scheme, and if it appears to the ombudsman that—

 - (a) there were good reasons for the failure to make the application to the society or to make the complaint to the ombudsman scheme within the required time and there has been no undue delay in referring a complaint under this regulation; and
 - (b) if an application to the society of a complaint to the ombudsman scheme had been made within the said time it would have been granted or determined in favour of the complainant;”;
 - (b) for “he may make an order directing” substitute “he may direct”;
 - (c) for “appeal” substitute “complaint”; and
 - (d) for “allowed” substitute “determined in favour of the complainant”.
- (6) In the Schedule—
- (a) for “the Chief Registrar of Friendly Societies, at 17, North Audley Street, London W1” substitute “to the Financial Ombudsman Service at South Quay Plaza, 183 Marsh Wall, London E14 9SR”; and
 - (b) for “If you decide to appeal you should write to the Chief Registrar” substitute “If you decide to make a complaint you should write to the ombudsman scheme”.

The Industrial Assurance (Decimal Currency) Regulations 1970 (S.I. 1970/931)

19. Regulation 1 of the Industrial Assurance (Decimal Currency) Regulations 1970 is amended as follows—

- (a) at the beginning of paragraph (2) of that regulation insert “Subject to paragraph (2A),”;
- (b) after paragraph (2) insert—

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“(2A) The definitions in paragraph (2B) apply for the purposes of any provision of these Regulations which makes provision in relation to the amount payable in respect of any payment to which these Regulations apply, where that payment falls due on or after 1st December 2001.

(2B) For the purposes of any provision of the kind mentioned in paragraph (2A)—

“collecting society” means a friendly society which after the repeal of the Industrial Assurance Act 1923 is subject to an existing liability or a liability which may accrue under a contract—

- (a) which was effected in the course of industrial assurance business, and
- (b) in respect of which a payment to which these Regulations apply falls due on or after 1st December 2001;

“industrial assurance company” means a person, other than a friendly society, who after the repeal of the Industrial Assurance Act 1923 is subject to an existing liability or a liability which may accrue under any contract—

- (a) which was effected in the course of industrial assurance business, and
- (b) in respect of which a payment to which these Regulations apply falls due on or after 1st December 2001.

(2C) For the purposes of paragraph (2B) “industrial assurance business” means business which, at the time the contract in question was effected, fell within section 1(2) of the Industrial Assurance Act 1923.”.

The Friendly Societies (Decimal Currency) Regulations 1970 (S.I. 1970/932)

20. Regulation 1 of the Friendly Societies (Decimal Currency) Regulations 1970 is amended as follows—

- (a) at the beginning of paragraph (2) insert “Subject to paragraph (2A),”;
- (b) after paragraph (2) insert—

“(2A) The definitions in paragraph (2B) apply for the purposes of any provision of these Regulations which makes provision in relation to the amount payable in respect of any payment to which these Regulations apply, where that payment falls due on or after 1st December 2001.

(2B) For the purposes of any provision of the kind mentioned in paragraph (2A)—

“friendly society” has the same meaning as in section 116 of the Friendly Societies Act 1992, but does not include a collecting society; and

“collecting society” means a friendly society which—

- (a) immediately before the repeal of the Industrial Assurance Act 1923 carried on industrial assurance business, within the meaning of section 1 of that Act, and
- (b) after the repeal of that Act is subject to an existing liability or a liability which may accrue under a contract which was effected in the course of that industrial assurance business.”.

*The Industrial Assurance (Premium Receipt Books)
(Decimal Currency) Regulations 1979 (S.I 1970/1012)*

21. The Industrial Assurance (Premium Receipt Books) (Decimal Currency) Regulations 1979 are revoked.

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The Registration of Births and Deaths Regulations 1987 (S.I. 1987/2088)

22. Regulation 68 of the Registration of Births and Deaths Regulations 1987 (certificates of death for certain purposes) is amended as follows—

- (a) in paragraph (1), (3) and (4) omit “of Schedule 1 to the 1948 Act and”; and
- (b) in paragraph (7) omit sub-paragraph (a).

The Financial Services and Markets Act 2000 (Mutual Societies) Order 2001 (S.I. 2001/2617)

23. Sub-paragraph (a) of paragraph 105 of Schedule 3 to the Financial Services and Markets Act 2000 (Mutual Societies) Order 2001 (amendments to the Friendly Societies Act 1992) is revoked, and the words omitted by that sub-paragraph are to be treated as if they had not been omitted.