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*Status: Point in time view as at 01/01/2006.*

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## STATUTORY INSTRUMENTS

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# 1979 No. 1574 (N.I. 13)

## Industrial Assurance (Northern Ireland) Order 1979 <sup>F1</sup>

[3rd December  
1979]

**F1** rep. by 2000 c. 8, certain provns saved by SI 2001/3647

### *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>F2</sup>“collecting society” means an incorporated friendly society or registered friendly society [<sup>F3</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>F2</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

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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>[F3]</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>[F3]</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>[F2]</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>[F2]</sup>“industrial assurance company” means a body corporate<sup>[F3]</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>[F3]</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;

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“registered friendly society”, in<sup>F2</sup> . . . 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>F2</sup> Friendly Societies Act (Northern Ireland) 1970] to perform in Northern Ireland the powers and duties of Registrar of Friendly Societies;

[<sup>F4</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>F2</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>F2</sup> Friendly Societies Act (Northern Ireland) 1970.].

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

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

<b>F2</b>	1992 c. 40
<b>F3</b>	SI 2001/3647
<b>F4</b>	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>F5</sup> . . .

[<sup>F5</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

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- (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*

**F5** SI 2001/3647

[<sup>F6</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).

(a) (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.]

F6 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>F7</sup> Chief Registrar of Friendly Societies] shall, where the society is a collecting society, be done by, to or before the<sup>F7</sup> Commission].

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

F7 1992 c. 40

### *Provisions applying only to collecting societies*

#### **Name of society**

**5**<sup>F8</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.

F8 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>F9</sup> on his insuring with the society, with a printed policy<sup>F10</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*

F9 prosp. rep. by 1992 c. 40

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**F10** 1992 c. 40

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

### Exemptions, total and partial

**12.**—<sup>F11</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>F11</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.

**F11** 1992 c. 40

### Power to exempt societies registered in Great Britain

**13.**—(1) The<sup>F12</sup> Commission] may, on the application of a collecting society<sup>F12</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>F12</sup> Commission] may by order ( “the revoking order”) revoke an order under paragraph (1).

(3) The<sup>F12</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.

**F12** 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>F13</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.]

**F13** 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.

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## Investigation of affairs

**18.**—<sup>[F14]</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>[F14]</sup> Commission] may, if<sup>[F14]</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>[F14]</sup> Commission] directs, and sums directed by the<sup>[F14]</sup> Commission] to be so paid shall be recoverable summarily by<sup>[F14]</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.

**F14** 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>[F15]</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>[F16]</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.

**F15** SI 2001/3647



**F16** SI 2002/1555

### Premium receipt books

**21.**—<sup>[F17]</sup>(1) <sup>[F17]</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<sup>F17</sup>. . . , 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>[F17]</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.]

**F17** SI 2001/3647

<sup>[F18]</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.]

**F18** 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.

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- (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>F19</sup>(1) <sup>F19</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>F19</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').]

**F19** SI 2001/3647

#### Returns as to industrial assurances

**23.**—(1) A collecting society ...<sup>F20</sup> shall, for each year as respects which they are required by the<sup>F21</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 ...<sup>F20</sup> 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*

**F20** 1980 c. 25

**F21** 1992 c. 40

#### Valuations, etc.

**24.** The provisions of Schedule 5 shall, in the case of a<sup>F22</sup> . . . an industrial assurance company, have effect in relation to valuations and to the other matters specified therein, including the powers of the<sup>F22</sup> Commission] in any case where the valuation discloses a deficiency.

F22 1992 c. 40

### General meetings

25.—(1) At least one general meeting of every<sup>F23</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<sup>F23</sup> . . . 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<sup>F23</sup> . . . 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<sup>F23</sup> . . . 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<sup>F23</sup> . . . company is carried on.

F23 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>F24</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>F24</sup> was filled in] wholly or partly by a person employed by the collecting society or industrial assurance

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company,<sup>F24</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>F24</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.

F24 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>F25</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.]

**F25** 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>F26</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.

**F26** SI 2001/3647

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### **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>[F27]</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>[F27]</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<sup>F27</sup>. . . 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>F27</sup> as it has effect by virtue of the Financial Services and Markets Act 2000 (Consequential Amendments and Savings) (Industrial Assurance) Order 2001].

F27 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>F28</sup> (regardless of whether that policy was effected before or after 1st December 2001)].

F28 SI 2001/3647

### Value of policies

34.—(1) Where, for the purposes of this Order, the value of a policy<sup>F29</sup> of industrial assurance] (including an illegal policy and a policy beyond the legal powers of a collecting society or industrial assurance company<sup>F29</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.

F29 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>F30</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>F30</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>F30</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

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- (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>F30</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.]

**F30** SI 2001/3647

### *Disputes*

#### [<sup>F31</sup>**Disputes**

**36.** Any dispute[<sup>F32</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.]

**F31** 1992 c. 40

**F32** SI 2001/3647

### *Provisions as to collectors, etc.*

#### [<sup>F33</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.]

**F33** 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.** [F34 Sections 49 and 50 of the Insurance Companies Act 1982], as modified in relation to industrial assurance business by [F35 section[F34 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.

**F34** 1982 c. 50

**F35** 1980 c. 25

Art. 41 rep. by 1992 c. 40

### *Offences*

#### **Offences by collecting societies**

**42.**—[F36(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).]

[F36(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*

**F36** SI 2001/3647

#### **Offences by industrial assurance companies**

**43.**—[F37(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).]

[F37(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).

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(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.

**F37** SI 2001/3647

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

[<sup>F38</sup>44]. [<sup>F38</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).]

**F38** 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>F39</sup> level 3 on the standard scale].

**F39** 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>F40</sup> relevant authority], but not in any case after more than three years from the commission of the offence.

[<sup>F40</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.

**F40** 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>F41</sup> level 3 on the standard scale], or to both.

**F41** 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

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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*

## SCHEDULES

*Schedules 1, 2 rep. by 1992 c. 40*

### SCHEDULE 3

Articles 16(2), 42(2), 43(2), 52(1) and  
Schedule 4

#### LIMITATIONS AND OTHER PROVISIONS AFFECTING INSURANCE BY INDUSTRIAL ASSURANCE COMPANY OF LIFE OF A PARENT OR GRANDPARENT

##### Limitations as to residence

*Para. 1 rep. by SI 2001/3647*

##### Limitations as to sum insured

*Sub-para. (1) rep. by SI 2001/3647*

(2) Where an insurance has been effected by an industrial assurance company in exercise of the power conferred by Article 16(1), then, subject to sub-paragraph (3)—

- (a) the company shall not by virtue of or in connection with that insurance pay to any person any sum which exceeds £30 when taken alone; or
- (b) the company shall not by virtue of or in connection with that insurance, pay to the person by whom that insurance was taken out any sum which exceeds £30 when added to any sum or sums paid to him, on the death on which money was thereby insured to be paid, by virtue of or in connection with any other relevant insurance taken out by him; or
- (c) if any payment has been made on the death in question by virtue of or in connection with that insurance to the person by whom it was taken out and that payment has not been repaid, the company shall not pay to him on that death, by virtue of or in connection with any other relevant insurance taken out by him, any sum which exceeds £30 when added to the sum so paid and not repaid, or when added to it and to any sum or sums paid to him on that death by virtue of or in connection with any other relevant insurance or insurances taken out by him.

(3) For the purposes of this paragraph, there shall be excluded any sum insured to be paid, or paid,—

- (a) by way of bonus, other than a guaranteed bonus; or
- (b) by way of repayment of premiums; or
- (c) under a free paid-up policy which was in force as such on 30th June 1948, or had been applied for or claimed before that date;

and so much of any sum insured to be paid, or paid, as represents—

- (i) any increase in any benefit payable by the company under a contract of assurance made by the company in the course of its industrial assurance business in Northern Ireland where

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the increase results from the adoption of a scheme prescribed or approved in pursuance of section 6(3) of the Decimal Currency Act 1969 (elimination of amounts other than a new halfpenny or multiples thereof); or

- (ii) any increase in any sum assured or guaranteed which is effected under regulation 6 or 7 of the Industrial Assurance (Life Assurance Premium Relief) Regulations (Northern Ireland) 1978 [F43 and amended under regulation 6 or 8 of the Industrial Assurance (Life Assurance Premium Relief) (Change of Rate) Regulations (Northern Ireland) 1989] (increase commensurate with increased premium under arrangements made in lieu of tax relief).

F42 mod. by SR 1989/76

F43 SR 1989/75

### Limitations as to alienation

3. Where, under any relevant insurance, money is for the time being insured to be paid to the person by whom the insurance was taken out on the death of a parent or grandparent of his—

- (a) any assignment or charge made by him after 22nd December 1948 of or on all or any of the rights in respect of the insurance conferred on him by the policy or by any provision of this Order, or of any enactment repealed by this Order; and
- (b) any agreement so made by him to assign or charge all or any of those rights;

shall, except in the case of a charge or agreement to charge for the purpose only of securing sums paid for keeping on foot or restoring the insurance, be void, and, on any bankruptcy of his, where the order of adjudication was made after 22nd December 1948, none of those rights shall pass to any trustee or other person acting on behalf of his creditors.

### Requirements as to death certificates

4. Paragraphs 5 to 9 have effect with regard to the production of certificates of death in connection with the making of payments relevant for the purposes of paragraph 2.

5. An industrial assurance company shall not, by virtue of or in connection with any relevant insurance of money to be paid on the death of a parent or grandparent of the person by whom the insurance was taken out, pay to that person on the death any sum not excluded, for the purposes of paragraph 2, by sub-paragraph (3) of that paragraph, except upon production of a certificate of the death for the purposes of this Schedule stated therein to be issued to the person to whom the payment is made, unless the death occurred outside Northern Ireland.

6. On so making payment of any such sum, the industrial assurance company shall cause to be endorsed on the certificate a statement showing—

- (a) the name of the company;
- (b) the amount of any such sum paid; and
- (c) the date of the contract for the insurance;

and, on receiving any repayment of a sum so paid by virtue of or in connection with an insurance effected in exercise of the power conferred by Article 16(1), the company shall cause to be endorsed on the certificate a statement showing the repayment.

7. Where an industrial assurance company is charged with a contravention of paragraph 2 in respect of the payment by the company of a sum which exceeded the limit of £30 imposed by paragraph 2(2)( b) or ( c) in consequence of the addition as thereby required of another sum paid by another industrial assurance company or by a registered friendly society, or two or more other sums so paid, and which would not have exceeded the limit apart from that addition, it shall be a defence for the company charged to prove that—

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- (a) the sum in respect of which the company is charged was paid in accordance with paragraph 5; and
- (b) the certificate produced disclosed no payment by any other industrial assurance company or by a registered friendly society of any sum or sums required by the said paragraph 2(2) ( b ) or ( c ) to be added, or disclosed such payment but only to an amount insufficient to cause the sum in respect of which the company is charged to exceed that limit;

subject, however, in the case of a certificate which is a duplicate, to the provisions of paragraph 9.

**8.** The provisions of paragraphs 4 and 5 of Schedule 5 to the Friendly Societies Act apply in relation to certificates of death for the purposes of this Schedule and the issue of duplicates thereof.

**9.** On production to an industrial assurance company of a duplicate which records a requirement for an endorsement made by it to be repeated in accordance with regulations under paragraph 5 of Schedule 5 to the Friendly Societies Act, the company shall cause the duplicate to be endorsed accordingly and paragraph 7 of this Schedule shall not apply in the case of a certificate which is a duplicate on which such a requirement is recorded, unless the duplicate has been endorsed by the company in question.

### Interpretation

**10.** In this Schedule—

“registered friendly society” includes a branch of such a society;

“relevant insurance” means an insurance effected<sup>[F44]</sup> before 1st December 2001] (whether before or after the commencement of this Order) by an industrial assurance company or by a registered friendly society in exercise of any power conferred by—

- (a) Article 16(1);
- (b) paragraph 1 of Schedule 9;
- (c) any provision of any enactment repealed by this Order corresponding to any of the provisions mentioned in paragraphs ( a ) and ( b );
- (d) <sup>[F45]</sup>paragraph (2)(d)] of Schedule 1 to the Friendly Societies Act.

**F44** SI 2001/3647

**F45** 1992 c. 40

**11.** References in Article 16(1) and this Schedule to a payment on a person's death include references to a payment for his funeral expenses.

## SCHEDULE 4

Article 22.

### MATTERS TO BE SET OUT IN PREMIUM RECEIPT BOOKS

**1.** The following matters shall be set out in premium receipt books pursuant to Article 22—

- (a) <sup>[F46]</sup>as to the following provisions of this Order (or of rules as mentioned below), either—
  - (i) those provisions, or
  - (ii) with the consent of the Financial Services Authority, a statement which sets out the effect of any such provision—]

**Status:** Point in time view as at 01/01/2006.

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<p>... F46 ... Article 21[F46 rules made by the Financial Services Authority relating to premium receipt books]. Article 27(2) to (5)  Article 28  Article 29 Article 30 Article 33 Article 36 Article 48  Paragraphs 2, 3, 10 and 11 of Schedule 3 to this Order (in the case of industrial assurance companies only) F46 ...</p>	<p>... F46 ... Premium receipt books.  Misstatements, and non-disclosure, in proposals.  Return of policies and premium receipt books after inspection.  Notice before forfeiture.  Provisions as to forfeited policies.  Payment of claims.  Disputes.  Notices.  Insurances on the life of parent or grandparent; limit on amount, and prohibition of assignment or charge.</p>
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(b) as to the following provisions of this Order,<sup>F47</sup> . . . and of the Friendly Societies Act, a statement which, in the opinion of the[F47 Commission], sufficiently sets out the effect thereof—

<p>F46 ... Paragraphs 5 to 9 of Schedule 3 to this Order (in the case of industrial assurance companies only) and Schedule 5 to the Friendly Societies Act (in the case of collecting societies only).</p>	<p>F46 ... Death certificates in connection with payments referred to in paragraph 2 of Schedule 3 to this Order or, as the case may be, in[F47 section 72] of the Friendly Societies Act.</p>
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*Para. 2 rep. by 1992 c. 40*

<p><b>F46</b> SI 2001/3647 <b>F47</b> 1992 c. 40</p>
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[F48]SCHEDULE 4A

MATTERS TO BE SET OUT IN STATEMENTS OF PROTECTIVE PROVISIONS

<p><b>F48</b> SI 2001/3647</p>
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**Status:** Point in time view as at 01/01/2006.

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1. Subject to paragraph 2, the matters required to be set out in a statement under Article 22(2) are the following provisions of this Order—

Article 21A	provision of receipts
Article 21B	provision of statements
Article 27	misstatements and non-disclosure in proposals
Article 28	return of policies and premium receipt books after inspection
Article 29	notice before forfeiture
Article 30	provisions as to forfeited policies
Article 33	payment of claims
Article 36	disputes
Article 48	notices

2. A statement setting out the effect of any provision mentioned in paragraph 1 may be substituted for that provision if the Financial Services Authority so consents.]

## SCHEDULE 5

Article 24, Sch. 2.

### PROVISIONS AS TO VALUATIONS AND RELATED MATTERS

1. The valuation shall be made by an actuary as defined by<sup>F49</sup> section 96(1) of the Insurance Companies Act 1982].

**F49** 1982 c. 50

2. The report containing the abstract of the valuation required by section 34 of the Friendly Societies Act shall be sent by a collecting society to the Commissioner within 12 months after the close of the period to which the valuation relates, and shall contain—

- (a) a statement as to how the value of stock exchange securities (if any) included in the balance sheet are arrived at; and
- (b) a certificate, signed by the same persons as sign the balance sheet, to the effect that, in their belief, the assets set out in the balance sheet are in the aggregate fully of the value stated therein, less any investment reserve fund taken into account.

3. Where the balance sheet of<sup>F50</sup> . . . an industrial assurance company includes amongst the assets thereof any sums representing—

- (a) expenses of organisation or extension; or
- (b) the purchase of business or goodwill;

and the amount of the assets, exclusive of such sums (after deducting debts due by the<sup>F50</sup> . . . company, other than debentures and loans), is less than the amount of the industrial assurance fund or, as the case may be, of the several assurance and insurance funds as shown in that balance sheet, the amount of the industrial assurance fund shown in the valuation balance sheet shall be reduced by the amount of the deficiency or, as the case may be, by a sum bearing such proportion to that deficiency as

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the amount of the industrial assurance fund shown in the first-mentioned balance sheet bears to the aggregate amount of all the assurance and insurance funds so shown.

**F50** 1992 c. 40

4. Where debentures have been issued or loans raised which are charged on any of the assets of the company in which the industrial assurance fund is invested, there shall be inserted in the valuation balance sheet a note giving the particulars of the charge and stating that the result shown by the valuation is subject to the liability under the charge.

- 5.—(1) Subject to sub-paragraph (2), if the<sup>F51</sup> Commission] is satisfied on any valuation—
- (a) that any of the foregoing provisions of this Schedule have not been complied with; or
  - (b) that the industrial assurance fund as stated in the valuation balance sheet is greater than the value of the assets available for the liabilities of that fund, due regard being had to the other liabilities of the<sup>F51</sup> . . . industrial assurance company and to the foregoing provisions of this Schedule;

[<sup>F51</sup>the Commission] may reject the valuation and may direct the<sup>F51</sup> . . . company to make such alteration therein as may be necessary to secure compliance with those provisions.

(2) The<sup>F51</sup> . . . industrial assurance company may appeal to the High Court against any decision of the [<sup>F51</sup> Commission] under this paragraph.

**F51** 1992 c. 40

6. The [<sup>F52</sup> Commission] may direct any<sup>F52</sup> . . . industrial assurance company to furnish to [<sup>F52</sup> it], in addition to such information as<sup>F52</sup> . . . the company is required to furnish under the Insurance Companies [<sup>F53</sup> Act [<sup>F54</sup> 1982]], such explanations as [<sup>F52</sup> it] considers necessary in order to satisfy [<sup>F52</sup> itself] whether the valuation complies with the provisions of this Schedule.

**F52** 1992 c. 40

**F53** 1980 c. 25

**F54** 1982 c. 50

7. Where a valuation discloses a deficiency, the [<sup>F55</sup> Commission] may, if, after investigation, [<sup>F55</sup> it] is satisfied that the<sup>F55</sup> . . . industrial assurance company should cease to carry on industrial assurance business,—

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

- (b) in the case of an industrial assurance company, present a petition to the High Court for the winding-up of the company.

**F55** 1992 c. 40

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## SCHEDULE 6

Articles 30(1)(ii) (2), 31(1), 34 and 35(2)

(b)

### RULES FOR VALUING POLICIES AND FOR ASCERTAINING THE AMOUNT OF A FREE PAID-UP POLICY

#### PART I

##### RULES FOR VALUING POLICIES

1. The value of the policy is to be the difference between the present value of the reversion in the sum assured according to the contingency upon which it is payable, including any bonus added thereto, and the present value of the future net premium.

2. Subject to paragraphs 3 to 5, the net premium is to be such premium as, according to the assumed rate of interest and rate of mortality and the age of the person whose life is assured at his birthday next following the date of the policy, is sufficient to provide for the risk incurred by the collecting society or industrial assurance company in issuing the policy, exclusive of any addition thereon for office expenses and other charges.

3. In the case of a policy, other than a policy for the whole term of life issued before the person whose life is assured attained the age of 10 years, the date of the policy may be assumed to be one year after the actual date, and, if it is so assumed, the term of the policy may be assumed to be one year less than the actual term.

4. In the case of a policy for the whole term of life issued before the person whose life is assured attained the age of 10 years, account shall not be taken of any period for which the policy was in force before the anniversary of the date of issue of the policy next preceding the date on which the age of 11 years was attained.

5. In the case of a substituted policy, the net premium shall be calculated with reference to such sum as, according to the practice of the collecting society or industrial assurance company for the time being, would have been assured by the premium payable, if the person upon whose life the substituted policy is issued had not been assured with the society or company before the issue of that policy.

#### PART II

##### RULE FOR ASCERTAINING THE AMOUNT OF A FREE PAID-UP POLICY

6. Subject to Article 35 and Schedule 7, the amount of a free paid-up policy is to be a sum bearing the same proportion to 75 per cent. of the value of the policy as the sum of £1 bears to the value of the reversion in the sum of £1, according to the contingency upon which the sum assured under the original policy was payable.

#### PART III

##### GENERAL RULES APPLICABLE FOR PURPOSES OF PARTS I AND II

7. Interest is to be assumed at the rate of 4 per cent. per annum.

8. The rate of mortality is to be assumed according to the table contained in column 6 of Table G in the Supplement to the 65th Annual Report of the Registrar-General of Births, Deaths and Marriages in England and Wales—Part I.

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9. The age of the person whose life is assured shall be obtained by adding to the age attained by him at his birthday next after the date of the issue of the policy, the duration of the policy in completed years at the date as at which the value of the policy is required to be ascertained.

10. In the case of a policy issued for a term other than the whole term of life, the remaining term at the date at which the value of the policy is required to be ascertained shall be obtained by deducting from the original term of the policy the duration of the policy in completed years at that date.

## PART IV

### MODIFICATIONS OF THIS SCHEDULE IN RELATION TO CERTAIN POLICIES

11. In its application to the valuation of a policy of which the sum assured or guaranteed has been increased under regulation 6 or 7 of the Industrial Assurance (Life Assurance Premium Relief) Regulations (Northern Ireland) 1978, this Schedule shall have effect subject to the following modifications—

- (a) the value of the policy shall be the aggregate of the value of the sum assured or guaranteed by the policy immediately before the increase and of the value of the increase in the sum assured or guaranteed;
- (b) for the purpose of the valuation of the increase in the sum assured or guaranteed, paragraphs 1 and 2 shall have effect as if the increase had been assured by a policy effected on the next anniversary date of the policy after 6th April 1979 for the then unexpired term of the policy.

<sup>F56</sup>12. In its application to the valuation of a policy of which the sum assured or guaranteed has been increased as mentioned in paragraph 11 and the increase has been amended under regulation 6 or 8 of the Industrial Assurance (Life Assurance Premium Relief) (Change of Rate) Regulations (Northern Ireland) 1989, this Schedule shall have effect subject to the following modification, namely the value of the policy shall be computed and approved by an actuary in accordance with principles which take account of the amendment and which are approved by the Commissioner.]

**F56** SR 1989/75

## SCHEDULE 7

Article 35(2)(a) (3), Schedule 6.

### SPECIAL RULES AS TO CERTAIN FREE PAID-UP POLICIES

1. Subject to paragraph 2, the free paid-up policy of a registered friendly society or an industrial assurance company shall assure payment, on the events on which the sums assured by the surrendered policy were payable, of sums bearing the same proportion to those sums (including any addition by way of bonus) as the amount of the premiums actually paid under the surrendered policy bears to the amount of the premiums which would have been payable under the surrendered policy had the full number of premiums become payable thereunder.

2. Where any sum has been paid by the registered friendly society or industrial assurance company under the surrendered policy, before the surrender of the policy, the sums assured by the free paid-up policy shall be<sup>F57</sup> and approved by an actuary in accordance with principles which take account of the substitution of 12½ per cent. for 15 per cent. effected by section 29 of the Finance Act 1988 and which are approved by<sup>F58</sup> an independent actuary whose appointment has been agreed by the society or company (as the case may be) and the policyholder[.].

**Status:** Point in time view as at 01/01/2006.

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**F57** SR 1989/76  
**F58** SI 2001/3647

3. Where the surrendered policy provided for payment of a sum by way of return of a premium on any event, the free paid-up policy shall provide that, on that event, such part of the premiums actually paid under the surrendered policy shall be repaid as would have been payable on that event if the surrendered policy had remained in force.

4. In paragraphs 1 and 3 the words “premiums actually paid”, in their application to a policy in respect of which under the prescribed scheme (as defined by Article 29(3)) or an approved scheme (as so defined) payment of any premium due has been discharged by payment of [<sup>F59</sup> 87½ per cent.] of that premium, shall include premiums in respect of which such payment has been made.

**F59** SR 1989/75, 76

5. In its application to a policy of which the sum assured or guaranteed has been increased under regulation 6 or 7 of the Industrial Assurance (Life Assurance Premium Relief) Regulations (Northern Ireland) 1978 (“the 1978 Regulations”), paragraph 1 shall have effect subject to the following modifications:—

- (a) For the purpose of calculating the amount assured by the free paid-up policy the sum assured by the surrendered policy shall be divided into the original sum assured and the increase in the sum assured, any addition to the sum assured by the surrendered policy by way of bonus on or after 6th April 1979 to be allocated proportionately between and to be treated as comprised in the original sum assured and the increase in the sum assured respectively.
- (b) The amount assured by the free paid-up policy shall consist of the aggregate of proportions of the original sum assured and of the increase in the sum assured calculated as follows:—
  - (i) the proportion of the original sum assured shall be the same proportion as the amount of the original premiums actually paid bears to the amount of the original premiums which would have been payable under the surrendered policy had the full number of original premiums become payable thereunder;
  - (ii) the proportion of the increase in the sum assured shall be the same proportion as the amount of the increase in premiums actually paid bears to the amount of the increase in premiums which would have been payable under the surrendered policy had the full number of increases in premium become payable thereunder.

[<sup>F60</sup>5A. In its application to a policy of which the sum assured or guaranteed has been increased as mentioned in paragraph 5 and the increase has been amended under regulation 6 or 8 of the Industrial Assurance (Life Assurance Premium Relief) (Change of Rate) Regulations (Northern Ireland) 1989 paragraph 1 shall have effect subject to the following modification, namely the amount assured by the free paid-up policy shall be computed and approved by an actuary in accordance with principles which take account of the amendment and which are approved by the [<sup>F61</sup> Commission].]

**F60** SR 1989/75  
**F61** 1992 c. 40

6. For the purpose of this paragraph and of paragraph 5( b)(i):

“the original premiums” means the premiums of the amount payable under the policy before the increase in premium was effected under regulation 5(1) or 7(2) of the 1978 Regulations, including, in respect of premiums paid, or which would have been payable, after 6th April

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1979, payments of that amount included in premiums paid, or which would have been payable, after that date;

“the original sum assured” means the sum (including any addition by way of bonus) assured or guaranteed under the surrendered policy on 6th April 1979 before the increase under regulation 6 or 7 of the 1978 Regulations took effect, together with any addition made thereto in respect of the due proportion of any bonus added on or after 6th April 1979;

“the amount of the increase in the sum assured” means the sum assured by the surrendered policy in so far as it exceeds the original sum assured as at 6th April 1979, together with any addition made thereto in respect of the due proportion of any bonus added on or after 6th April 1979.

### *Schedule 8—Amendments*

## SCHEDULE 9

Articles 2(2), 35(1)(a), 52(1), 54 and  
Schedules 2, 3 and 4

### SAVINGS AND TRANSITIONAL PROVISIONS

#### Savings for policies on lives of persons ordinarily resident outside the United Kingdom and the Isle of Man or effected before certain dates

*Para. 1 rep. by SI 2001/3647*

2.—(1) Notwithstanding the repeal by this Order of section 4 of the Act of 1924 and the fact that the repeals made by this Order in subsection (2) of section 6 of the Act of 1948 cause the proviso to that subsection to cease to apply to industrial assurance companies, the provisions set out in this paragraph shall continue to apply to insurances effected<sup>F62</sup> before 1st December 2001] by an industrial assurance company on the life of a person who, at the time of the proposal,<sup>F62</sup> was ordinarily resident] outside the United Kingdom and the Isle of Man, including assurances the premiums in respect of which are payable at intervals of two months or more; but this paragraph does not apply where the person insuring has an interest in the life of the person insured.

(2) An industrial assurance company shall not<sup>F62</sup> . . . pay on the death of a child under the ages hereinafter specified any sum of money which exceeds or which, when added to any amount payable on the death of that child by any other industrial assurance company or by any friendly society or branch, whether registered or not registered, or by any trade union, exceeds the amounts hereinafter specified, that is to say,—

- (a) £6 in the case of a child under three years of age;
- (b) £10 in the case of a child under six years of age;
- (c) £15 in the case of a child under 10 years of age.

(3) Where an application is made for a certificate of the death of a child for the purpose of obtaining a sum of money from an industrial assurance company in respect of such an insurance—

- (a) the name of the company and the sum sought to be obtained from it shall be stated to the registrar of deaths;

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- (b) the registrar of deaths shall write on or at the foot of the certificate the words “to be produced to the ... (*naming the industrial assurance company*) said to be liable for payment of the sum of ... (*stating the amount sought to be obtained*)”;
  - (c) the certificate, together with all other certificates of the same death, shall be numbered in consecutive order.
- (4) A registrar of deaths shall not give any one or more certificates of death for the payment in the whole of any sum of money exceeding—
- (a) £6 on the death of a child under three years of age; or
  - (b) £10 on the death of a child under six years of age; or
  - (c) £15 on the death of a child under 10 years of age.
- (5) A registrar of deaths shall not give any such certificate unless the cause of death has been previously entered in the register of deaths on the certificate of a coroner or of a registered medical practitioner who attended the deceased child during its last illness, or except upon the production of a certificate of the probable cause of death under the hand of a registered medical practitioner, or of other satisfactory evidence thereof.
- (6) An industrial assurance company shall not pay any sum on the death of a child under 10 years of age except upon production by the person claiming payment of a certificate of death issued by the registrar of deaths, or other person having the care of the register of deaths, containing the particulars mentioned in sub-paragraph (3).
- (7) An industrial assurance company to which there is produced a certificate of the death of a child which does not purport to be the first shall, before paying any money thereon, inquire whether any and what sums of money have been paid on the same death by any other industrial assurance company, or any friendly society or branch.

**F62** SI 2001/3647

3. For the purpose of calculating the maximum sum which may<sup>F63</sup> . . . or paid<sup>F63</sup> . . . under paragraph 2(2), no account shall be taken of any repayment of the whole or any part of the premium paid in respect of any endowment policy, and<sup>F63</sup> paragraph] 2(6) shall not apply as respects any such payment.

**F63** SI 2001/3647

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

5. Any endowment policy issued before 1st January 1925, which would have been in force on that date if the Act of 1929 had been in operation on and from the date on which the policy was issued, shall be deemed, for the purposes of this Order, to have been in force on 1st January 1925 and, in the case of a policy of the description mentioned in paragraph 1(1)( b), to have been issued in accordance with that paragraph, and, as respects any endowment policy in force on, or issued since, that date, Article 35 and paragraph 1 of this Schedule shall be deemed to have been in operation on and from the date on which the policy was issued.

#### Transitional provisions

*Para. 6 rep. by SI 2001/3647*

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7. Any certificate of exemption issued under section 11 of the Collecting Societies and Industrial Assurance Companies Act 1896 or the corresponding provision of any Act repealed by that Act and in force immediately before the commencement of this Order shall continue in force until revoked by the Commissioner and have effect as if it were a certificate under Article 12 exempting the society from all the provisions of this Order.

8. The provisions of Part VI of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (as applied to Northern Ireland by any Order in Council under section 65 of that Act), and of regulations made under section 57 of that Act (as so applied), shall have effect in relation to this Order as they had in relation to the corresponding provisions of the enactments repealed by this Order.

9.—(1) The inclusion in this Order of any express amendment or saving shall not be taken as prejudicing the operation of sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954 (which relate to the effect of repeals and substituting provisions).

(2) For the purposes of this Order, the provisions of section 29(1) (construction of references to the superseded enactment) and (3)(a) (statutory instruments or documents made, and things done, under the superseded enactment to have effect as if made or done under the superseding enactment) of that Act shall apply to all instruments and documents as they apply to statutory instruments and statutory documents within the meaning of that Act.

## Interpretation

*Para. 10 rep. by SI 2001/3647*

*Schedule 10—Repeals*



**Status:**

Point in time view as at 01/01/2006.

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