



# Companies Act 1967 (repealed)

## 1967 CHAPTER 81

### PART II

#### AMENDMENTS OF LAW WITH RESPECT TO INSURANCE COMPANIES

##### *Penalties and legal Proceedings*

- 85**
- (1) ..... F1
- (2) ..... F2

#### **Textual Amendments**

- F1** Ss. 58, 59, 60(1)(2) (4), 61—63, 67, 69, 70(1)(2), 71(1)(2), 72(1), 73, 74, 75(1), 76(1), 76(3), 77, 78, 79(1), 81, 84, 85(1), 88, 92—95, 98, 100, 101, 102(1), 104 repealed by [Insurance Companies Act 1974 \(c. 49\)](#), [Sch. 2](#)
- F2** Ss. 64, 66, 70(3), 71(3)(4), 72(2)(3), 75(2), 76(2), 79(2)(3), 83, 85(2), 103, 105, 106 repealed by [Insurance Companies Amendment Act 1973 \(c. 58\)](#), [Sch. 2](#)

**86** **Penalty on industrial assurance company for noncompliance with enactments relating to industrial assurance.**

- (1) An industrial assurance company (within the meaning of the Industrial Assurance Act 1923) which, after the passing of this Act,—
- (a) contravenes or fails to comply with any of the provisions of the <sup>M1</sup>Industrial Assurance Act 1923, the <sup>M2</sup>Industrial Assurance and Friendly Societies Act 1948 or Part VI of the <sup>M3</sup>Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951, of regulations made for the purposes of section 8 of the said Act of 1948 or of regulations made under section 57 of the said Act of 1951;

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- (b) contravenes or fails to comply with any directions given under the <sup>M4</sup>Industrial Assurance Act 1923 by the Industrial Assurance Commissioner;
- (c) contravenes the proviso to section 1(1) of the <sup>M5</sup>Industrial Assurance and Friendly Societies Act 1929 (which proviso limits the sums which may be insured or paid for funeral expenses);
- (d) fails to comply with a claim made in accordance with the provisions of subsection (1) of section 3 (rights of owners of certain endowment policies) of the last-mentioned Act; or
- (e) issues such a premium receipt book as is mentioned in subsection (3) of the last-mentioned section which does not comply with the provisions of that subsection;

shall, subject to the next following subsection, be guilty of an offence.

- (2) Such a company shall not be guilty of an offence under this section consisting in its insuring in contravention of subsection (2) of section 2 of the <sup>M6</sup>Industrial Assurance and Friendly Societies Act 1948 (power to insure life of parent or grandparent for not more than £30) if it is proved that, owing to any false representation on the part of the proposer, the company did not know that the insurance was in contravention of that sub-section.
- (3) A company guilty of an offence under this section shall be liable, on summary conviction, to a fine not exceeding £200.
- (4) So far as regards section 3(1) of the <sup>M7</sup>Industrial Assurance and Friendly Societies Act 1929, this section shall not prejudice any liability of a company subsisting otherwise than by virtue of this section.

#### **Marginal Citations**

<b>M1</b>	1923 c. 8.
<b>M2</b>	1948 c. 39.
<b>M3</b>	1951 c. 65.
<b>M4</b>	1923 c. 8.
<b>M5</b>	1929 c. 28.
<b>M6</b>	1948 c. 39.
<b>M7</b>	1929 c. 28.

## **87 Penalty on friendly society for offence under Industrial Assurance Act 1923.**

The maximum penalty that may be inflicted on a society registered under the <sup>M8</sup>Friendly Societies Act 1896, being a friendly society within the meaning of that Act, for an offence under the <sup>M9</sup>Industrial Assurance Act 1923 committed after the passing of this Act shall, instead of being a fine not exceeding £100 or, in the case of a continuing offence, a fine not exceeding £50 a day during which the offence continues, be a fine not exceeding £200; and, accordingly, section 39(1) of the said Act of 1923 shall, in relation to an offence under that Act so committed by a society so registered, being such a friendly society as aforesaid, have effect with the substitution, for the proviso thereto, of the following proviso:—

“Provided that the maximum penalty that may be inflicted for an offence under this Act shall be a fine not exceeding £200”.

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#### Marginal Citations

- M8** 1896 c. 25.  
**M9** 1923 c. 8.

**88** <sup>F3</sup> .....

#### Textual Amendments

- F3** Ss. 58, 59, 60(1)(2) (4), 61—63, 67, 69, 70(1)(2), 71(1)(2), 72(1), 73, 74, 75(1), 76(1), 76(3), 77, 78, 79(1), 81, 84, 85(1), 88, 92—95, 98, 100, 101, 102(1), 104 repealed by [Insurance Companies Act 1974 \(c. 49\)](#), [Sch. 2](#)

#### **89** Criminal liability of directors, etc.

- (1) Where an offence under this Part of this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any [<sup>F4</sup>director, chief executive or manager (as defined in the <sup>M10</sup>Insurance Companies Act [<sup>F5</sup>1982])], secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.
- (2) For the purposes of the foregoing subsection, a person shall be deemed to be a director of a body corporate if he is a person in accordance with whose directions or instructions the directors of the body or any of them act.

#### Textual Amendments

- F4** Words substituted by [Insurance Companies Act 1974 \(c. 49\)](#), [Sch. 1](#)  
**F5** Figure substituted by [Insurance Companies Act 1982 \(c. 50, SIF 67\)](#), s. 99(2), [Sch. 5 para. 6](#)

#### Modifications etc. (not altering text)

- C1** [S. 89\(1\)](#) shall continue to have effect as amended by [1974 c. 49](#) and [1982 c. 50 \(5.11.1993\)](#) by virtue of [1993 c. 50, s. 1\(2\)](#), [Sch. 2 Pt. II para.29](#).

#### Marginal Citations

- M10** 1974 c. 49.

#### [<sup>F6</sup>90] Summary proceedings.

- (1) Summary proceedings for an offence under this Part may (without prejudice to any jurisdiction exercisable apart from this subsection) be taken against a body corporate at any place at which the body has a place of business, and against any other person at any place at which he is for the time being.
- (2) Notwithstanding anything in section 127(1) of the Magistrates' Courts Act 1980, an information relating to an offence under this Part which is triable by a magistrates' court in England and Wales may be so tried if it is laid at any time within 3 years

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after the commission of the offence and within 12 months after the date on which evidence sufficient in the opinion of the Director of Public Prosecutions, the Secretary of State or the Industrial Assurance Commissioner (as the case may be) to justify the proceedings comes to his knowledge.

- (3) Summary proceedings in Scotland for an offence under this Part shall not be commenced after the expiration of 3 years from the commission of the offence.

Subject to this (and notwithstanding anything in section 331 of the Criminal Procedure (Scotland) Act 1975), such proceedings may (in Scotland) be commenced at any time within 12 months after the date on which evidence sufficient in the Lord Advocate's opinion to justify the proceedings comes to his knowledge or, where such evidence was reported to him by the Secretary of State or the Industrial Assurance Commissioner, within 12 months after the date on which it came to the knowledge of the former or the latter (as the case may be); and subsection (3) of that section applies for the purpose of this subsection as it applies for the purposes of that section.

- (4) For purposes of this section, a certificate of the Director of Public Prosecutions, the Lord Advocate, the Secretary of State or the Industrial Assurance Commissioner (as the case may be) as to the date on which such evidence came to his knowledge is conclusive evidence.]

**Textual Amendments**

- F6** S. 90 substituted by [Companies Consolidation \(Consequential Provisions\) Act 1985 \(c. 9, SIF 27\)](#), s. 30, [Sch. 2](#)

**91 Restriction of institution of proceedings in respect of offences under Part II.**

Proceedings in respect of an offence under this Part of this Act shall not, in England or Wales, be instituted except by, or with the consent of, the Board of Trade, the Industrial Assurance Commissioner or the Director of Public Prosecutions.

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**Changes to legislation:**

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