

SCHEDULE 3

PART I

CONSEQUENTIAL AMENDMENTS AND REPEALS: PRIMARY LEGISLATION

The Friendly Societies Act 1955 (c. 19)

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 Section 6 of the Friendly Societies Act 1955 (extension of powers in connection with sickness benefits) is repealed.

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

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

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

(3) After subsection (1) insert—

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

(4) In subsection (9)—

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

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

(5) After subsection (9) insert—

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

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

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

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

(i) This section applies to—

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

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(2) After subsection (1) insert—

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

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

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

(3) After subsection (5) insert—

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

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

(2) Subsection (1) is repealed.

(3) For subsection (5)(1) substitute—

“(5) Subject to subsection (5A), any contravention by an industrial assurance company, a collecting society, or a friendly society of provisions of regulations under this section is to be treated as if it were a contravention of a requirement imposed under the Financial Services and Markets Act 2000 (with the effect that Part XIV of that Act applies).”.

(4) After subsection (5) insert—

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

(5B) Nothing in subsection (5) prejudices the operation of section 16 of the Interpretation Act 1978 in relation to any legal proceedings in respect of, or any penalty which may be imposed in relation to, a contravention of the kind mentioned in that subsection committed before 1st December 2001.”.

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

(2) Subsection (1) is repealed.

(3) In subsection (2)—

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

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

““collecting society” means a friendly society which—

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

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

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

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

(2) 1992 c. 40.

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

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

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

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

““society” means, as the case may be—

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

(5) After subsection (2) insert—

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

The Insurance Companies Act 1958 (c. 72)

7. The Insurance Companies Act 1958 is repealed.

The Companies Act 1967 (c. 81)

8. The Companies Act 1967 is repealed.

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

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

The Decimal Currency Act 1969 (c. 19)

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

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

““the appropriate authority” means the Treasury;”

(3) In subsection (11) of section 6—

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

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

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

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

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

The Insurance Companies Amendment Act 1973 (c. 58)

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

The Friendly Societies Act 1974 (c. 46)

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

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

The Friendly Societies Act 1992 (c. 40)

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

“(5) For the purposes of this section—

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

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

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

(2) After subsection (3) insert—

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

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

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

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

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

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