



Companies Act 1967

1967 CHAPTER 81

PART II

AMENDMENTS OF LAW WITH RESPECT TO INSURANCE COMPANIES

Penalties and legal Proceedings

85 Penalty for non-compliance with Part II or the principal Act.

- (1) An insurance company which makes default in complying with a requirement of this Part of this Act, being a default for which no express penalty is provided, or makes, after the passing of this Act, default in complying with a requirement of the principal Act shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £200.
- (2) Section 26(2) of the principal Act (default by a company in complying with a requirement of that Act, if continued for three months after notice thereof, to be a ground for winding up the company) shall cease to have effect.

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 Industrial Assurance Act 1923, the Industrial Assurance and Friendly Societies Act 1948 or Part VI of the 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;
 - (b) contravenes or fails to comply with any directions given under the Industrial Assurance Act 1923 by the Industrial Assurance Commissioner;

Status: This is the original version (as it was originally enacted).

- (c) contravenes the proviso to section 1(1) of the 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 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 subsection.
- (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 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.

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 Friendly Societies Act 1896, being a friendly society within the meaning of that Act, for an offence under the 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”.

88 Proceedings against unincorporated bodies for offences under Part II.

- (1) Proceedings for an offence alleged to have been committed under this Part of this Act by an unincorporated body shall be brought in the name of that body (and not in that of any of its members), and for the purposes of any such proceedings, any rules of court relating to the service of documents shall have effect as if that body were a corporation.
- (2) A fine imposed on an unincorporated body on its conviction of an offence under this Part of this Act shall be paid out of the funds of that body.
- (3) Section 33 of the Criminal Justice Act 1925 (as amended by section 15(7) of the Justices of the Peace Act 1949) and Schedule 2 to the Magistrates' Courts Act 1952 (procedure on charge of offence against a corporation) shall have effect in a case in which an unincorporated body is charged in England or Wales with an offence under

this Part of this Act in like manner as they have effect in the case of a corporation so charged.

- (4) In relation to any proceedings on indictment in Scotland for an offence alleged to have been committed under this Part of this Act by an unincorporated body, section 40 of the Criminal Justice (Scotland) Act 1949 (proceedings on indictment against bodies corporate) shall have effect as if the said body were a body corporate.

89 Criminal liability of directors.,

- (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 director, manager, 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.

90 Application of certain provisions of Part I to summary proceedings in respect of offences under Part II.

Subsections (2) to (5) (both inclusive) of section 49 of this Act shall apply to, and in connection with, summary proceedings for offences under this Part of this Act and to informations relating to offences thereunder which are triable summarily as they apply to, and in connection with, such proceedings for offences under the Companies Act 1948 and Part I of this Act and to informations relating to offences thereunder that are triable summarily, but subject to the modification of the inclusion, after the references to the Board of Trade, of references to the Industrial Assurance Commissioner.

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.