1992 No. 307

COMPANIES

The Insurance Companies (Winding-Up) Rules (Northern Ireland) 1992

Made . . . . . *2nd July 1992*

Coming into operation . . *1st September 1992*

To be laid before Parliament

The Lord Chancellor, in exercise of the powers conferred on him by Article 359 of the Insolvency (Northern Ireland) Order 1989(**a**) and section 59 of the Insurance Companies Act 1982(**b**), with the concurrence of the Department of Economic Development, and after consulting the committee existing for that purpose under Article 360 of the Insolvency (Northern Ireland) Order 1989, hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Insurance Companies (Winding-Up) Rules (Northern Ireland) 1992 and shall come into operation on 1st September 1992.

Interpretation

2.—(1) In these Rules—

"the 1982 Act" means the Insurance Companies Act 1982;

"company" means an insurance company which is being wound up;

"the Department" means the Department of Economic Development;

"excess of the long term business assets" means the amount, if any, by which the value as at the date of the winding-up order of the assets representing the fund or funds maintained by the company in respect of its long term business exceeds the value as at that date of the liabilities of the company attributable to that business;

"excess of the other business assets" means the amount, if any, by which the value as at the date of the winding-up order of the assets of the company which do not represent the fund or funds maintained by the company in respect of its long term business exceeds the value as at that date of the liabilities of the company (other than liabilities in respect of share capital) which are not attributable to that business;

(**a**) S.I. 1989/2405 (N.I. 19)

(**b**) 1982 c. 50; section 59 was amended by Part II of Schedule 1 to the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 [S.I. 1986/1035 (N.I. 9)] and by paragraph 37 of Part II of Schedule 9 to the Insolvency (Northern Ireland) Order 1989 [S.I. 1989/2405 (N.I. 19)]

"general business policy" means a policy the effecting of which by the company constitutes the carrying on of general business;

"the general regulations" means the Insolvency Regulations (Northern Ireland) 1991(**a**);

"insurance company" means an insurance company to which Part II of the 1982 Act applies;

"linked liability" means any liability under a policy the effecting of which constitutes the carrying on of long term insurance business the amount of which is determined by reference to—

(*a*) the value of property of any description (whether or not specified in the policy),

(*b*) fluctuations in the value of such property,

(*c*) income from any such property, or

(*d*) fluctuations in an index of the value of such property;

"linked policy" means a policy which provides for linked liabilities and a policy which when made provided for linked liabilities shall be deemed to be a linked policy even if the policy holder has elected to convert his rights under the policy so that at the date of the winding-up order there are no longer linked liabilities under the policy;

"long term policy" means a policy the effecting of which by the company constitutes the carrying on of long term business;

"non-linked policy" means a policy which is not a linked policy;

"the 1979 Order" means the Industrial Assurance (Northern Ireland) Order 1979(**b**);

"the 1986 Order" means the Companies (Northern Ireland) Order 1986(**c**);

"the 1989 Order" means the Insolvency (Northern Ireland) Order 1989;

"other business", in relation to a company carrying on long term business, means such of the business of the company as is not long term business;

"the principal Rules" means the Insolvency Rules (Northern Ireland) 1991(**d**);

"stop order" in relation to a company means an order of the court, made under section 56(2) of the 1982 Act, ordering the liquidator to stop carrying on the long term business of the company;

"unit" in relation to a linked policy means any unit (whether or not described as a unit in the policy) by reference to the numbers and value of which the amount of the linked liabilities under the policy at any time is measured.

(**a**) S.R. 1991 No. 388
(**b**) S.I. 1979/1574 (N.I. 13)
(**c**) S.I. 1986/1032 (N.I. 6)
(**d**) S.R. 1991 No. 364

(2) Unless the context otherwise requires words or expressions contained in these Rules bear the same meaning as in the principal Rules, the general regulations, the 1982 Act, the 1989 Order, or any statutory modification thereof respectively.

Application

3.—(1) These Rules apply to proceedings for the winding up of an insurance company which commence on or after the date on which these Rules come into operation.

(2) These Rules supplement the principal Rules and the general regulations which continue to apply to the proceedings in the winding up of an insurance company under the 1989 Order as they apply to proceedings in the winding up of any company under that Order but in the event of conflict between these Rules and the principal Rules or the general regulations these Rules prevail.

Appointment of liquidator

4. Where the High Court considers the appointment of a liquidator under—

(*a*) Article 118(4) of the 1989 Order (High Court appointment of liquidator where conflict between creditors and contributories), or

(*b*) Article 119 of that Order (High Court appointment of liquidator following administration or voluntary arrangement),

the Policyholders Protection Board may appear on the application or (as the case may be) the petition, and make representations as to the person to be appointed.

Separation of long term and other business in winding-up

5.—(1) This Rule applies in the case of a company carrying on long term business.

(2) The assets of the company which in accordance with section 55(3) and (4) of the 1982 Act are available for meeting the liabilities of the company attributable to its long term business shall, in pursuance of Article 126 of the 1989 Order, be applied in discharge of those liabilities as though those assets and those liabilities were the assets and liabilities of a separate company.

(3) The assets of the company which in accordance with section 55(3) and (4) of the 1982 Act are available for meeting the liabilities of the company attributable to its other business shall, in pursuance of Article 126 of the 1989 Order, be applied in discharge of those liabilities as though those assets and those liabilities were the assets and liabilities of a separate company.

Valuation of general business policies

6. Except in relation to amounts which have fallen due for payment before the date of the winding-up order, the holder of a general business policy shall be admitted as a creditor in relation to his policy without proof for an amount equal to the value of the policy and for this purpose the value of a policy shall be determined in accordance with Schedule 1.

Valuation of long term policies

7.—(1) This Rule applies in relation to a company's long term business where no stop order has been made.

(2) In relation to a claim under a policy which has fallen due for payment before the date of the winding-up order, a policy holder shall be admitted as a creditor without proof for such amount as appears from the records of the company to be due in respect of that claim.

(3) In all other respects a policy holder shall be admitted as a creditor in relation to his policy without proof for an amount equal to the value of the policy and for this purpose the value of a policy of any class shall be determined in the manner applicable to policies of that class provided by Schedules 2, 3 and 4.

(4) This Rule applies in relation to a person entitled to apply for a free paid-up policy under Article 30 of the 1979 Order and to whom no such policy has been issued before the date of the winding-up order (whether or not it was applied for) as if such a policy had been issued immediately before the date of the winding-up order—

(*a*) for the minimum amount determined in accordance with Article 30(2) and (3) of the 1979 Order, or

(*b*) if the liquidator is satisfied that it was the practice of the company during the five years immediately before the date of the winding-up order to issue policies under Article 30 of that Order in excess of the minimum amounts so determined, for the amount determined in accordance with that practice.

8.—(1) This Rule applies in relation to a company's long term business where a stop order has been made.

(2) In relation to a claim under a policy which has fallen due for payment on or after the date of the winding-up order and before the date of the stop order, a policy holder shall be admitted as a creditor without proof for such amount as appears from the records of the company and of the liquidator to be due in respect of that claim.

(3) In all other respects a policy holder shall be admitted as a creditor in relation to his policy without proof for an amount equal to the value of the policy and for this purpose the value of a policy of any class shall be determined in the manner applicable to policies of that class provided by Schedule 5.

(4) Rule 7(4) applies for the purposes of this Rule as if references to the date of the winding-up order (other than that in sub-paragraph (*b*) of that paragraph) were references to the date of the stop order.

Attribution of assets and liabilities to the long term business

9.—(1) This Rule applies in the case of a company carrying on long term business if at the date of the winding-up order there are liabilities of the company in respect of which it is not clear from the accounting and other records of the company whether they are or are not attributable to the company's long term business.

(2) The liquidator shall, in such manner and according to such accounting principles as he shall determine, identify the liabilities referred to in paragraph (1) as attributable or not attributable to a company's long term business and those liabilities shall for the purposes of the winding up be deemed as at the date of the winding-up order to be so attributable or not as the case may be.

(3) In making his determination under this Rule the liquidator may determine that some liabilities are attributable to the company's long term business and that others are not or he may determine that a part of a liability is attributable to the company's long term business and that the remainder of that liability is not and he may use one method for some of the liabilities and the other method for the remainder of them.

10.—(1) This Rule applies in the case of a company carrying on long term business if at the date of the winding-up order there are assets of the company in respect of which—

(*a*) it is not clear from the accounting and other records of the company whether they do or do not represent the fund or funds maintained by the company in respect of its long term business, and

(*b*) it cannot be inferred from the source of the income out of which those assets were provided whether they do or do not represent those funds.

(2) Subject to paragraph (6) the liquidator shall determine which (if any) of the assets referred to in paragraph (1) are attributable to those funds and which (if any) are not and those assets shall, for the purpose of the winding up, be deemed as at the date of the winding-up order to represent those funds or not in accordance with the liquidator's determination.

(3) For the purpose of paragraph (2) the liquidator may—

(*a*) determine that some of those assets shall be attributable to those funds and that others of them shall not (the first method); or

(*b*) determine that a part of the value of one of those assets shall be attributable to those funds and that the remainder of that value shall not (the second method),

and he may use the first method for some of those assets and the second method for others of them.

(4) (*a*) In making the attribution the liquidator's objective shall in the first instance be so far as possible to reduce any deficit that may exist, at the date of the winding-up order and before any attribution is made, either in the company's long term business or in its other business.

(*b*) If there is a deficit in both the company's long term business and its other business the attribution shall be in the ratio that the amount of the one deficit bears to the amount of the other until the deficits are eliminated.

(*c*) Thereafter the attribution shall be in the ratio which the aggregate amount of the liabilities attributable to the company's long term business bears to the aggregate amount of the liabilities not so attributable.

(5) For the purpose of paragraph (4) the value of a liability of the company shall, if it falls to be valued under Rule 6 or 7, have the same value as it has under that Rule but otherwise it shall have such value as would have been included in relation to it in a balance sheet of the company prepared in pursuance of section 17 of the 1982 Act as at the date of the winding-up order and, for the purpose of determining the ratio referred to in paragraph (4) but not for the purpose of determining the amount of any deficit therein referred to, the net balance of shareholders' funds shall be included in the liabilities not attributable to the company's long term business.

(6) Notwithstanding anything in paragraphs (1) to (5) the High Court may order that the determination of which (if any) of the assets referred to in paragraph (1) are attributable to the fund or funds maintained by the company in respect of its long term business and which (if any) are not shall be made in such manner and by such methods as the Court may direct or the Court may itself make the determination.

Excess of long term business assets

11. Where the company is one carrying on long term business, for the purpose of determining the amount, if any, of the excess of the long term business assets, there shall be included amongst the liabilities of the company attributable to its long term business an amount determined by the liquidator in respect of liabilities and expenses likely to be incurred in connection with the transfer of the company's long term business as a going concern to another insurance company being liabilities not included in the valuation of the long term policies made in pursuance of Rule 7.

Actuarial advice

12.—(1) Before determining the value of a policy in accordance with Schedules 1 to 5 (other than paragraph 2 of Schedule 1), before identifying long term assets and liabilities in accordance with Rules 9 and 10 and before determining the amount (if any) of the excess of the long term business assets in accordance with Rule 11, and before determining the terms on which he will accept payment of overdue premiums under Rule 21(1) and the amount and nature of any compensation under Rule 21(2), the liquidator shall obtain and consider advice thereon (including an estimate of any value or amount required to be determined) from an actuary.

(2) Before seeking, for the purpose of valuing a policy, the direction of the High Court as to the assumption of a particular rate of interest or the employment of any rates of mortality or disability, the liquidator shall obtain and consider advice thereon from an actuary.

Utilisation of excess of assets

13.—(1) Except at the direction of the High Court—

(*a*) no distribution may be made out of and no transfer to another insurance company may be made of any part of the excess of the long term business assets which has been transferred to the other business, and

(*b*) no distribution may be made out of and no transfer to another insurance company may be made of any part of the excess of the other business assets which has been transferred to the long term business.

(2) Before giving a direction under paragraph (1) the High Court may require the liquidator to advertise the proposal to make a distribution or a transfer in such manner as the Court shall direct.

Local bank account

14.—(1) In the case of a company carrying on long term business, in whose case no stop order has been made, Regulation 6 of the general regulations applies only in relation to the company's other business.

(2) The liquidator of such a company may open any local bank account which he is authorised to open by the Department and he may pay into such an account any moneys which form part of the assets representing the fund or funds maintained by the company in respect of its long term business.

(3) All payments out of any such local bank account shall be made by cheque payable to order and every cheque shall have marked or written on the face of it the name of the company and shall be signed by the liquidator or by any special manager appointed under section 56(3) of the 1982 Act.

Custody of assets

15.—(1) The Department may, in the case of a company carrying on long term business in whose case no stop order has been made, require that the whole or a specified proportion of the assets representing the fund or funds maintained by the company in respect of its long term business shall be held by a person approved by it for the purpose as trustee for the company.

(2) No assets held by a person as trustee for a company in compliance with a requirement imposed under this Rule shall, so long as the requirement is in force, be released except with the consent of the Department but they may be transposed by the trustee into other assets by any transaction or series of transactions on the written instructions of the liquidator.

(3) The liquidator may not grant any mortgage or charge of assets which are held by a person as trustee for the company in compliance with a requirement imposed under this Rule except with the consent of the Department.

Maintenance of accounting, valuation and other records

16.—(1) In the case of a company carrying on long term business, in whose case no stop order has been made, Regulation 19 of the general regulations applies only in relation to the company's other business.

(2) The liquidator of such a company shall, with a view to the long term business of the company being transferred to another insurance company, maintain such minute books and accounting, valuation and other records as will enable such other insurance company upon the transfer being effected to comply with the requirements of the provisions of the 1982 Act relating to accounts and statements of insurance companies.

Additional powers in relation to the long term business

17.—(1) In the case of a company carrying on long term business, in whose case no stop order has been made, Regulation 21 of the general regulations applies only in relation to the company's other business.

(2) The liquidator of a company carrying on long term business shall, so long as no stop order has been made, have power to do all such things as may be necessary to the performance of his duties under section 56(2) of the 1982 Act but the Department may require him—

(*a*) not to make investments of a specified class or description,

(*b*) to realise, before the expiration of a specified period (or such longer period as the Department may allow), the whole or a specified proportion of investments of a specified class or description held by the liquidator when the requirement is imposed.

Accounts and audit

18.—(1) In the case of a company carrying on long term business, in whose case no stop order has been made, Regulations 9(3), 10, 13 and 15 of the general regulations apply only in relation to the company's other business.

(2) The liquidator of such a company shall supply the Department, at such times or intervals as it shall specify, with such accounts as it may specify and audited in such manner as it may require and with such information about specified matters and verified in such specified manner as it may require.

(3) The liquidator of such a company shall, if required to do so by the Department, instruct an actuary to investigate the financial condition of the company's long term business and to report thereon in such manner as the Department may specify.

(4) The liquidator of such a company shall, at the expiration of six months from the date of the winding-up order and at the expiration of every six months thereafter, prepare a summary of his receipts and payments in the course of carrying on the long term business of the company during that period, procure that the summary be examined and verified by a person qualified under Article 397 of the 1986 Order to audit the accounts of companies and transmit to the Department two copies of the summary verified as aforesaid.

(5) The Department shall file one of these copies with the Master and that copy shall be open to the inspection of any person on payment of the same fee as is payable with respect to the inspection of the file of proceedings under any order made under section 116 of the Judicature (Northern Ireland) Act 1978(**a**).

Security by liquidator and special manager

19. In the case of a company carrying on long term business, in whose case no stop order has been made, Rule 4.217 of the principal Rules applies separately to the company's long term business and to its other business.

(**a**) 1978 c. 23

Proof of debts

20.—(1) This Rule applies in the case of a company carrying on long term business.

(2) The liquidator may in relation to the company's long term business and to its other business fix different days on or before which the creditors of the company who are required to prove their debts or claims are to prove their debts or claims and he may fix one of those days without at the same time fixing the other.

(3) In submitting a proof of any debt a creditor may claim the whole or any part of such debt as attributable to the company's long term business or to its other business or he may make no such attribution.

(4) When he admits any debt in whole or in part the liquidator shall state in writing how much of what he admits is attributable to the company's long term business and how much to the company's other business.

Failure to pay premiums

21.—(1) The liquidator may in the course of carrying on the company's long term business and on such terms as he thinks fit accept payment of a premium even though the payment is tendered after the date on which under the terms of the policy it was finally due to be paid.

(2) The liquidator may in the course of carrying on the company's long term business, and having regard to the general practice of insurers, compensate a policy holder whose policy has lapsed in consequence of a failure to pay any premium by issuing a free paid-up policy for reduced benefits or otherwise as the liquidator thinks fit.

Notice of valuation of policy

22.—(1) The liquidator shall give notice of the value of each general business policy, as determined by him in accordance with Rule 6, to the persons appearing from the records of the company or otherwise to be entitled to an interest in that policy and he shall do so in such manner as the court may direct.

(2) In the case of a company carrying on long term business, if the liquidator, before a stop order is made in relation to the company, summons a separate general meeting of creditors in respect of liabilities of the company attributable to its long term business in pursuance of Article 143 of the 1989 Order as that Article has effect by virtue of section 55(5) of the 1982 Act, he shall give notice in Form No. 1 set out in Schedule 6 to the persons appearing from the records of the company or otherwise to be entitled to a payment under or to an interest in a long term policy of the amount of that payment or the value of that policy as determined by him in accordance with Rule 7(2) or (3) as the case may be and he shall give that notice with the notice summoning the meeting.

(3) If a stop order is made in relation to the company the liquidator shall give notice to all the persons appearing from the records of the company or otherwise to be entitled to a payment under or to an interest in a long term policy of the amount of that payment or the value of that policy as determined by him in accordance with Rule 8(2) or (3) as the case may be and he shall give that notice in such manner as the High Court may direct.

(4) Any person to whom notice is so given shall be bound by the value so determined unless and until the High Court otherwise orders.

(5) Paragraphs (2) and (3) have effect as though references therein to persons appearing to be entitled to an interest in a long term policy and to the value of that policy included respectively references to persons appearing to be entitled to apply for a free paid-up policy under Article 30 of the 1979 Order and to the value of that entitlement under Rule 7 (in the case of paragraph (2)) or under Rule 8 (in the case of paragraph (3)).

Dividends to creditors

23.—(1) This Rule applies in the case of a company carrying on long term business.

(2) Part 11 of the principal Rules applies separately in relation to the two separate companies assumed for the purposes of Rule 5.

(3) The High Court may, at any time before the making of a stop order, permit a dividend to be declared and paid on such terms as it thinks fit in respect only of debts which fell due for payment before the date of the winding-up order or, in the case of claims under long term policies, which have fallen due for payment on or after the date of the winding-up order.

Meetings of creditors

24.—(1) In the case of a company carrying on long term business, Chapter 8 of Part 4 and Part 8 of the principal Rules (so far as relating to winding up by the High Court) apply to each separate general meeting of the creditors summoned under Article 143 of the 1989 Order as that Article has effect by virtue of section 55(5) of the 1982 Act.

(2) In relation to any such separate meeting—

(*a*) Rule 4.068(3) of the principal Rules has effect as if the reference therein to assets of the company were a reference to the assets available under section 55 of the 1982 Act for meeting the liabilities of the company owed to the creditors summoned to the meeting, and

(*b*) Rule 4.070 of the principal Rules applied as if the reference therein to value in relation to a creditor who is not, by virtue of Rule 6, 7 or 8 required to prove his debt, were a reference to the value most recently notified to him under Rule 22 or, if the High Court has determined a different value in accordance with Rule 22(4), as if it were a reference to that different value.

Remuneration of liquidator carrying on long term business

25.—(1) So long as no stop order has been made in relation to a company carrying on long term business, the liquidator is entitled to receive remuneration for his services as such in relation to the carrying on of that business as provided for in this Rule.

(2) The remuneration shall be fixed by the liquidation committee by reference to the time properly given by the liquidator and his staff in attending to matters arising in the winding up.

(3) If there is no liquidation committee, or the committee does not make the requisite determination, the liquidator's remuneration may be fixed (in accordance with paragraph (2)) by a resolution of a meeting of creditors.

(4) If not fixed as in paragraphs (2) and (3), the liquidator's remuneration shall be in accordance with the scale laid down for the official receiver by the general regulations.

(5) If the liquidator's remuneration has been fixed by the liquidation committee, and the liquidator considers the amount to be insufficient, he may request that it be increased by resolution of the creditors.

Apportionment of costs payable out of the assets

26.—(1) Rule 4.228 of the principal Rules applies separately to the assets of the company's long term business and to the assets of the company's other business.

(2) But where any fee, expense, cost, charge, disbursement or remuneration does not relate exclusively to the assets of the company's long term business or to the assets of the company's other business the liquidator shall apportion it amongst these assets in such manner as he shall determine.

Notice of stop order

27.—(1) When a stop order has been made in relation to the company the Master shall, on the same day, send to the official receiver a notice informing him that the stop order has been pronounced.

(2) The notice shall be in Form No. 2 set out in Schedule 6 with such variation as circumstances may require.

(3) Three copies of the stop order sealed with the seal of the High Court shall forthwith be sent by post or otherwise by the Master to the official receiver.

(4) The official receiver shall cause a sealed copy of the order to be served upon the liquidator by prepaid letter or upon such other person or persons, or in such other manner as the court may direct, and shall forward a copy of the order to the registrar of companies.

(5) The liquidator shall forthwith on receipt of a sealed copy of the order—

(*a*) cause notice of the order in Form No. 3 set out in Schedule 6 to be gazetted, and

(*b*) advertise the making of the order in the newspaper in which the winding-up order was advertised by notice in Form No. 4 set out in Schedule 6.

Dated 2nd July 1992. *Mackay of Clashfern*, C.

The Department of Economic Development hereby concurs to the foregoing Rules.

Sealed with the Official Seal of the Department of Economic Development on 6th July 1992.

(L.S.) *A. H. McAlister*
Assistant Secretary

SCHEDULE 1 Rule 6

General business policies

1.—(1) This paragraph applies in relation to periodic payments under a general business policy which fall due for payment after the date of the winding-up order where the event giving rise to the liability to make the payments occurred before the date of the winding-up order.

(2) The value to be attributed to such periodic payments shall be determined on such actuarial principles and assumptions in regard to all relevant factors as the court shall direct.

2.—(1) This paragraph applies in relation to liabilities under a general business policy not dealt with by paragraph 1.

(2) The value to be attributed to those liabilities shall—

(*a*) if the terms of the policy provide for a repayment of premium upon the early termination of the policy or the policy is expressed to run from one definite date to another or the policy may be terminated by any of the parties with effect from a definite date, be the greater of the following two amount—

(i) the amount (if any) which under the terms of the policy would have been repayable on early termination of the policy had the policy terminated on the date of the winding-up, and

(ii) where the policy is expressed to run from one definite date to another or may be terminated by any of the parties with effect from a definite date, such proportion of the last premium paid as is proportionate to the unexpired portion of the period in respect of which that premium was paid; and

(*b*) in any other case, be a just estimate of that value.

Rules for valuing non-linked life policies, non-linked deferred annuity policies, non-linked annuities in payment and capital redemption policies

General

1.—(1) In valuing a policy—

(*a*) where it is necessary to calculate the present value of future payments by or to the company interest shall be assumed at such rate or rates as the High Court may direct;

(*b*) where relevant the rates of mortality and the rates of disability to be employed shall be such rates as the High Court may consider appropriate after taking into account—

(i) relevant published tables of rates of mortality and rates of disability, and

(ii) the rates of mortality and the rates of disability experienced in connection with similar policies issued by the company;

(*c*) there shall be determined—

(i) the present value of the ordinary benefits,

(ii) a reserve for options,

(iii) a reserve for expenses, and

(iv) if further fixed premiums fall due to be paid under the policy on or after the date of the winding-up order, the present value of the modified net premiums;

and for the purpose of this Schedule a premium is a fixed premium if the amount of it is determined by the terms of the policy and it cannot be varied.

(2) Where under the terms of the policy or on the basis of the company's established practice the policy holder has a right to receive or an expectation of receiving benefits additional to the minimum benefits guaranteed under those terms the High Court shall determine rates of interest, mortality and disability under paragraph (1) which will result in the inclusion in the present value of the ordinary benefits and in the present value of the modified net premiums of such margin (if any) as the Court may consider appropriate to provide for that right or expectation in respect of the period after the date of the winding-up order.

Present value of the ordinary benefits

2.—(1) Ordinary benefits are the benefits which will become payable to the policy holder on or after the date of the winding-up order without his having to exercise any option under the policy (including any bonus or addition to the sum assured or the amount of annuity declared before the date of the winding-up order) and for this purpose "option" includes a right to surrender the policy.

(2) The present value of the ordinary benefits shall be the value at the date of the winding-up order of the reversion in the ordinary benefits according to the contingency upon which those benefits are payable calculated on the basis of the rates of interest, mortality and disability referred to in paragraph 1.

Reserve for options

3. The amount of the reserve for options shall be the amount which, in the opinion of the liquidator, arrived at on appropriate assumptions in regard to all relevant factors, is necessary to be provided at the date of the winding-up order (in addition to the amount of the present value of the ordinary benefits) to cover the additional liabilities likely to arise upon the exercise on or after that date by the policy

holder of any option conferred upon him by the terms of the policy or, in the case of an industrial assurance policy, by the 1979 Order other than an option whereby the policy holder can secure a guaranteed cash payment within the period of 12 months beginning with that date.

Reserve for expenses

4.—(1) The amount of the reserve for expenses is the amount which, in the opinion of the liquidator, is necessary to be provided at the date of the winding-up order for meeting future expenses.

(2) In this paragraph "future expenses" means such part of the expenses likely to be incurred after that date in the fulfilling by the liquidator or by any transferee from the liquidator of the company's long term business of the obligations of that business as is appropriate to the policy and which cannot be met out of the amounts (if any) by which the actual premiums payable under that policy after that date exceed the amounts of the modified net premiums which correspond to those actual premiums.

Net premiums

5.—(1) For the purpose of determining the present value of the modified net premiums a net premium shall be determined in relation to each actual premium paid or payable under the policy in such a way that—

(*a*) the net premiums, if they had been payable when the corresponding actual premiums were or are payable, would, on the basis of the rates of interest, mortality and disability referred to in paragraph 1, have been sufficient when the policy was issued to provide for the benefits under the policy according to the contingencies on which they are payable, exclusive of any addition for profits, expenses or other charges, and

(*b*) the ratio between the amounts of any two net premiums is the same as the ratio between the amounts of the two actual premiums to which they correspond (any actual premium which includes a loading for unusual risks assumed by the company in respect of part only of the term of the policy being treated for this purpose as if it did not include that loading).

(2) For the purposes of this paragraph, where at any time after the policy was issued the terms of the policy have been varied (otherwise than by the surrender of the policy in consideration of the issue of a new policy), it shall be assumed that the policy when it was issued provided for those variations to take effect at the time when they did in fact take effect.

Modified net premiums

6.—(1) A modified net premium shall be determined in relation to each net premium by making an addition to each net premium such that—

(*a*) the additions, if each was payable when the corresponding actual premium was or is payable, would, on the basis of the rates of interest, mortality and disability referred to in paragraph 1, have been sufficient to compensate for the acquisition expenses relating to the policy, and

(*b*) the ratio between the amounts of any two modified net premiums is the same as the ratio between the amounts of the two net premiums to which they correspond.

(2) For this purpose the acquisition expenses relating to the policy shall be taken to be 3·5 per cent (or the defined percentage if it be lower than 3·5 per cent) of the relevant capital sum under the contract and for this purpose—

(*a*) "the defined percentage" is the percentage arrived at by taking (for all policies which in the opinion of the liquidator have the same or similar

characteristics to the policy in question, and which he considers appropriate to be taken notice of for this purpose), the average of the percentages of the relevant capital sums under those policies that represent the acquisition expenses for which, after allowing for the effects of taxation, allowance is made in the premiums actually payable; and

(*b*) "the relevant capital sum" in relation to any policy is—

(i) for whole life assurances, the sum assured,

(ii) for policies where a sum is payable on maturity (including policies where a sum is also payable on earlier death), the sum payable on maturity,

(iii) for temporary assurances, the sum assured on the date of the winding-up order,

(iv) for deferred annuity policies, the capitalised value on the date on which the first payment is due to be made of the payments due to be made under the policy calculated on the basis of the rates of interest, mortality and disability referred to in paragraph 1 or, if the terms of the policy include a right on the part of the policy holder to surrender the policy on that date for a cash payment greater than the said capitalised value, the amount of that cash payment, and

(v) for capital redemption policies, the sum payable at the end of the contract period.

(3) Where the amount of a modified net premium calculated in accordance with sub-paragraphs (1) and (2) is greater than the amount of the actual premium to which it corresponds then the amount of that modified net premium shall be the amount of that actual premium and not the amount calculated in accordance with sub-paragraphs (1) and (2).

Present value of the modified net premiums

7. The present value of the modified net premiums shall be the value as at the date of the winding-up order, calculated on the basis of the rates of interest, mortality and disability referred to in paragraph 1, of the modified net premiums payable after that date on the assumption that they are payable as and when the corresponding actual premiums are payable.

Value of the policy

8.—(1) Subject to sub-paragraph (2)—

(*a*) if no further fixed premiums fall due to be paid under the policy on or after the date of the winding-up order, the value of the policy shall be the aggregate of—

(i) the present value of the ordinary benefits,

(ii) the reserve for options,

(iii) the reserve for expenses, and

(iv) where under the terms of the policy or on the basis of the company's established practice the policy holder has a right to receive or an expectation of receiving benefits additional to the ordinary benefits, such amount (if any) as the High Court may determine to reflect that right or expectation in respect of the period ending with the date of the winding-up order;

(*b*) if further fixed premiums fall due to be so paid and the aggregate value referred to in head (*a*) exceeds the present value of the modified net premiums, the value of the policy shall be the amount of that excess; and

(*c*) if further fixed premiums fall due to be so paid and that aggregate does not exceed the present value of the modified net premiums, the policy shall have no value.

(2) Where the policy holder has a right conferred upon him by the terms of the policy or by the 1979 Order whereby the policy holder can secure a guaranteed cash payment within the period of 12 months beginning with the date of the winding-up order, the liquidator shall determine the amount which in his opinion it is necessary to provide at that date to cover the liabilities which will accrue when that option is exercised (on the assumption that it will be exercised) and the value of the policy shall be that amount if it exceeds the value of the policy (if any) determined in accordance with sub-paragraph (1).

SCHEDULE 3 Rule 7(3)

Rules for valuing life policies and deferred annuity policies which are linked policies

1.—(1) Subject to sub-paragraph (2) the value of the policy shall be the aggregate of the value of the linked liabilities (calculated in accordance with paragraph 2 or 4) and the value of other than linked liabilities (calculated in accordance with paragraph 5) except where that aggregate is a negative amount in which case the policy shall have no value.

(2) Where the terms of the policy include a right whereby the policy holder can secure a guaranteed cash payment within the period of 12 months beginning with the date of the winding-up order then, if the amount which in the opinion of the liquidator is necessary to be provided at that date to cover any liabilities which will accrue when that option is exercised (on the assumption that it will be exercised) is greater than the value determined under sub-paragraph (1) the value of the policy shall be that greater amount.

2.—(1) Where the linked liabilities are expressed in terms of units the value of those liabilities shall, subject to paragraph 3, be the amount arrived at by taking the product of the number of units of each class of units allocated to the policy on the date of the winding-up order and the value of each such unit on that date and then adding those products.

(2) For the purposes of sub-paragraph (1)—

(*a*) where under the terms of the policy the value of a unit at any time falls to be determined by reference to the value at that time of the assets of a particular fund maintained by the company in relation to that and other policies, the value of a unit on the date of the winding-up order shall be determined by reference to the net realisable value of the assets credited to that fund on that date (after taking account of disposal costs, any tax liabilities resulting from the disposal of assets insofar as they have not already been provided for by the company and any other amounts which under the terms of those policies are chargeable to the fund), and

(*b*) in any other case, the value of a unit on the date of the winding-up order shall be the value which would have been ascribed to each unit credited to the policy holder, after any deductions which may be made under the terms of the policy, for the purpose of determining the benefits payable under the policy on the date of the winding-up order had the policy matured on that date.

3.—(1) This paragraph applies where—

(*a*) paragraph 2(2)(*a*) applies and the company has a right under the terms of the policy either to make periodic withdrawals from the fund referred to in that paragraph or to retain any part of the income accruing in respect of the assets of that fund, or

(*b*) paragraph 2(2)(*b*) applies and the company has a right under the terms of the policy to receive the whole or any part of any distributions made in respect of the units referred to in that paragraph, or

(*c*) paragraph 2(2)(*a*) or paragraph 2(2)(*b*) applies and the company has a right under the terms of the policy to make periodic cancellations of a proportion of the number of units credited to the policy.

(2) Where this paragraph applies the value of the linked liabilities calculated in accordance with paragraph 2(1) shall be reduced by an amount calculated in accordance with sub-paragraph (3) of this paragraph.

(3) The amount referred to in sub-paragraph (2) is—

(*a*) where this paragraph applies by virtue of head (*a*) or (*b*) of sub-paragraph (1), the value as at the date of the winding-up order, calculated on actuarial principles, of the future income of the company in respect of the units in question arising from the rights referred to in head (*a*) or (*b*) of sub-paragraph (1) as the case may be, or

(*b*) where this paragraph applies by virtue of head (*c*) of sub-paragraph (1), the value as at the date of the winding-up order, calculated on actuarial principles, of the liabilities of the company in respect of the units which fall to be cancelled in the future under the right referred to in head (*c*) of sub-paragraph (1).

(4) In calculating any amount in accordance with sub-paragraph (3) there shall be disregarded—

(*a*) such part of the rights referred to in the relevant head of sub-paragraph (1) which in the opinion of the liquidator constitutes appropriate provision for future expenses and mortality risks, and

(*b*) such part of those rights (if any) which the High Court considers to constitute appropriate provision for any right or expectation of the policyholder to receive benefits additional to the benefits guaranteed under the terms of the policy.

(5) In determining the amount referred to in sub-paragraph (2)—

(*a*) interest shall be assumed at such rate or rates as the High Court may direct, and

(*b*) where relevant the rates of mortality and the rates of disability to be employed shall be such rates as the Court may consider appropriate after taking into account—

(i) relevant published tables of rates of mortality and rates of disability, and

(ii) the rates of mortality and the rates of disability experienced in connection with similar policies issued by the company.

4. Where the linked liabilities are not expressed in terms of units the value of those liabilities shall be the value which would have been ascribed to these liabilities had the policy matured on the date of the winding-up order.

5.—(1) The value of any liabilities other than linked liabilities including reserves for future expenses, options and guarantees shall be determined on actuarial principles and appropriate assumptions in regard to all relevant factors including the assumption of such rate or rates of interest, mortality and disability as the High Court may direct.

(2) In valuing liabilities under this paragraph credit shall be taken for those parts of future premiums which do not fall to be applied in the allocation of further units to the policy and for any rights of the company which have been disregarded under paragraph 3(4)(*a*) in valuing the linked liabilities.

SCHEDULE 4 Rule 7(3)

Rules for valuing long term policies which are not dealt with in Schedules 2 and 3

The value of a long term policy not covered by Schedule 2 or 3 shall be determined on such actuarial principles and assumptions in regard to all relevant factors as the High Court shall determine.

SCHEDULE 5 Rule 8(3)

Rules for valuing long term policies where a stop order has been made

1. Subject to paragraphs 2 and 3, in valuing a policy Schedules 2, 3 or 4 shall apply according to the class of that policy as if those Schedules were herein repeated but with a view to a fresh valuation of each policy on appropriate assumptions in regard to all relevant factors and subject to the following modifications—

(*a*) references to the stop order shall be substituted for references to the winding-up order,

(*b*) in paragraph 3 of Schedule 2 for the words "whereby the policy holder can secure a guaranteed cash payment within the period of 12 months beginning with that date" there shall be substituted the words "to surrender the policy which can be exercised on that date",

(*c*) in paragraph 4(2) of Schedule 2 for the words "likely to be incurred" there shall be substituted the words "which were likely to have been incurred" and for the words "cannot be met" there shall be substituted the words "could not have been met",

(*d*) paragraph 8(2) of Schedule 2 shall be deleted, and

(*e*) paragraph 1(2) of Schedule 3 shall be deleted.

2.—(1) This paragraph applies where the policy holder has a right conferred upon him under the terms of the policy or by the 1979 Order to surrender the policy and that right is exercisable on the date of the stop order.

(2) Where this paragraph applies and the amount required at the date of the stop order to provide for the benefits payable upon surrender of the policy on the assumption that the policy is surrendered on the date of the stop order is greater than the value of the policy determined in accordance with paragraph 1 the value of the policy shall, subject to paragraph 3, be the said amount so required.

(3) Where any part of the surrender value is payable after the date of the stop order sub-paragraph (2) shall apply but the value therein referred to shall be discounted at such rate of interest as the High Court may direct.

3.—(1) This paragraph applies in the case of a linked policy where—

(*a*) the terms of the policy include a guarantee that the amount assured will on maturity of the policy be worth a minimum amount calculable in money terms, or

(*b*) the terms of the policy include a right on the part of the policy holder to surrender the policy and a guarantee that the payment on surrender will be worth a minimum amount calculable in money terms and that right is exercisable on or after the date of the stop order.

(2) Where this paragraph applies the value of the policy shall be the greater of the following two amounts—

(*a*) the value the policy would have had at the date of the stop order had the policy been a non-linked policy, that is to say, had the linked liabilities provided by the policy not been so provided but the policy had otherwise been on the same terms, and

(*b*) the value the policy would have had at the date of the stop order had the policy not included any guarantees of payments on maturity or surrender worth a minimum amount calculable in money terms.

FORM No. 1

The Insurance Companies (Winding-Up) Rules (Northern Ireland) 1992

NOTICE OF MEETING OF LONG TERM BUSINESS CREDITORS

(Title)

Take notice that a meeting of creditors of the company's long term business will be held at on the day of 19 , at hours.

For the purpose of voting at this meeting [your claim has been valued at £ . .] [your policy has been valued at £ . .].

NOTE: The valuation of your policy is for the purpose of voting only and a different value may be attributed to your policy for other purposes.

Agenda

[Here insert purpose for which meeting is called]

Dated this day of 19 .

(Signed) [*'Liquidator' or 'Official Receiver and Liquidator'*]

A proxy form is enclosed herewith. Proxies to be used at the meeting must be lodged with at , in the County of , not later than hours on the day of 19 .

FORM No. 2

The Insurance Companies (Winding-Up) Rules (Northern Ireland) 1992

NOTIFICATION TO OFFICIAL RECEIVER OF ORDER PRONOUNCED UNDER SECTION 56(2) OF THE INSURANCE COMPANIES ACT 1982

(Title)

To the Official Receiver

(Address)

Order pronounced this day by the Honourable Mr. Justice [*or, as the case may be]* that the liquidator of [*insert name of company*] shall not carry on the long term business of the company.

FORM No. 3

The Insurance Companies (Winding-Up) Rules (Northern Ireland) 1992

NOTICE FOR BELFAST GAZETTE

NOTICE OF ORDER PRONOUNCED UNDER SECTION 56(2) OF THE INSURANCE COMPANIES ACT 1982 FOR CESSATION OF LONG TERM BUSINESS

Name of company

Address of registered office

Court Number of matter Date of order

Date of winding-up order

FORM No. 4

The Insurance Companies (Winding-Up) Rules (Northern Ireland) 1992

NOTICE FOR NEWSPAPER

NOTICE OF ORDER PRONOUNCED UNDER SECTION 56(2) OF THE INSURANCE COMPANIES ACT 1982 FOR CESSATION OF LONG TERM BUSINESS

Name of company

Date of winding-up order

Date of order

Liquidator

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules come into operation on 1st September 1992 and apply to proceedings for the winding up of insurance companies commenced on or after that date. They provide for the carrying on by the Liquidator of the long term business of the company, unless and until the Court otherwise orders, and for the separate winding-up of the long term and any other business of the company.

More particularly the Rules provide for—

any necessary identification of the assets and liabilities of the company's long term business and those of its other business;

methods of valuation of long term business policies for the purpose of determining the amount of any excess of assets over liabilities in the company's long term business;

methods of valuation of long term business policies for the purposes of proof in the winding-up of the long term business where the Court orders the liquidator to stop carrying on the long term business; and

methods of valuation of general business policies which apply both for the purpose of determining the amount of any excess of assets over liabilities in the general business of a composite insurance company and for the purposes of proof in the winding-up of a general business company or of the general business of a composite insurance company; and

methods of calculating the liquidator's remuneration on a time and rate basis as reflected in the provisions of the Insolvency Rules (Northern Ireland) 1991.

1992 No. 308

Temporary Speed Limit (Route A3, Portadown) Order (Northern Ireland) 1992

This Order, being of a temporary character, is not printed at length in this volume.

1992 No. 309

Road Races (Garron Point Hill Climb) Order (Northern Ireland) 1992

This Order, being of a temporary character, is not printed at length in this volume.