

INSURANCE COMPANIES' DEPOSITS BILL.

EXPLANATORY MEMORANDUM.

THE present law requiring deposits by insurance companies is unsatisfactory in many respects. Under the Foreign Insurance Companies' Deposits Act, 1908, as amended by the Act of 1910, (a) no deposit whatever is required in respect of the business of fire insurance, and practically none in respect of the business of employers' liability insurance; (b) the same deposit is required from companies constituted within the British Empire as from companies constituted in foreign countries, and the term "foreign company" is used as descriptive of British companies; (c) the business of life insurance, though dealt with separately by the Life Insurance Act, 1908, is again dealt with in the Foreign Insurance Companies' Deposits Act; (d) securities may be deposited in lieu of money, and difficulties may arise in the event of the realization of such securities being required.

This Bill proposes to repeal the Foreign Insurance Companies Act, 1908, and the Amendment of 1910. No deposit is required from companies constituted in New Zealand under the New Zealand laws, but from companies constituted beyond New Zealand substantial deposits are required in respect of (1) fire-insurance business, (2) employers' liability insurance business, and (3) all other classes of insurance other than life insurance and marine insurance. From such companies established within the British Empire less deposits are required than from companies established in foreign countries, for the obvious reason that recovery under a policy is simpler by process within the Empire than by process in foreign countries. Judgment in either case can be obtained by process under the New Zealand law against the local attorney of the company, but enforcement is more difficult.

A further distinction in the amount of deposit required is made between companies already established in New Zealand and companies desiring to enter into such business in New Zealand in future.

All deposits are required to be in cash, and to be invested in the common fund of the Public Trust Office.

The provisions in the repealed Acts relating to life insurance companies are transferred in substance to a separate Bill amending the Life Insurance Act, 1908.

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,

16th January, 1922.

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Hon. Mr. Coates.

INSURANCE COMPANIES' DEPOSITS.

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A BILL INTITULED

AN ACT to require Deposits from Companies carrying on the Business of Insurance against Fire, Accident, and Employers' Liability. Title.

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Insurance Companies' Deposits Act, 1921, and shall come into force on the first day of January, 10 nineteen hundred and *twenty-two*. Short Title and commencement.

2. In this Act, if not inconsistent with the context,— Interpretation.

“Company” means any association of persons whether corporate or unincorporate:

15 “British company” means a company established or incorporated in, and having its chief office in, the United Kingdom or in any of His Majesty's dominions or possessions other than New Zealand:

20 “Foreign company” means a company established or incorporated in, or having its chief office in, any foreign country:

"Insurance business" means every class of insurance business except—

- (a.) Life insurance, including endowment and annuity contracts; and
(b.) Marine insurance.

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PART I.

DEPOSITS BY COMPANIES ALREADY ESTABLISHED AND CARRYING ON INSURANCE BUSINESS IN NEW ZEALAND.

Deposits to be made by existing insurance companies in security of policyholders.

3. (1.) Every British company which has heretofore commenced and is at the commencement of this Act carrying on in New Zealand any class of insurance business specified in the *First* Schedule to this Act shall, within ~~three~~ *four* months after the commencement of this Act, deposit with the Public Trustee in money the sum specified in that Schedule in respect of such class.

(2.) Every foreign company which has heretofore commenced and is at the commencement of this Act carrying on in New Zealand any class of insurance business shall, within *six* months after the commencement of this Act, deposit with the Public Trustee in money the sum specified in the *Second* Schedule hereto.

(3.) Where any British company is carrying on more than one such class of insurance business it shall deposit with the Public Trustee, in accordance with this section, the sum specified as aforesaid in respect of each such class of business.

(4.) Where any British company, which is not at the commencement of this Act carrying on all the said classes of insurance business, hereafter proposes to carry on any of the said classes, such company shall, before commencing to carry on such class of insurance business, deposit with the Public Trustee in money the amount specified as aforesaid in respect of that class.

Return of deposits made under Part III of Foreign Insurance Companies' Deposits Act.

4. Every British company or foreign company which has heretofore deposited with the Public Trustee cash or approved securities under the provisions of Part III of the Foreign Insurance Companies' Deposits Act, 1908, shall be entitled to a refund of such cash or to a return of such securities upon making the deposit required by this Act.

PART II.

DEPOSITS BY COMPANIES PROPOSING TO COMMENCE INSURANCE BUSINESS IN NEW ZEALAND.

Deposits to be made by companies hereafter commencing insurance business in New Zealand.

5. (1.) Every British company which hereafter proposes to commence in New Zealand any class of insurance business shall, before commencing such business, deposit with the Public Trustee the sum of *fifty thousand* pounds.

(2.) Every foreign company which hereafter proposes to commence in New Zealand any class of insurance business shall, before commencing such business, deposit with the Public Trustee the sum of *one hundred thousand* pounds.

PART III.

GENERAL.

6. (1.) All moneys deposited with the Public Trustee under this Act shall be invested in the common fund under the Public Trust Office Act, 1908, and shall bear interest at the rate from time to time payable in respect of investments in the said common fund.

Investment of deposits for benefit of companies.

(2.) Every company shall be entitled to receive from time to time the income payable in respect of the deposit or deposits made by it.

7. (1.) Subject to the provisions of this Act the Public Trustee shall, as to every deposit made under this Act, hold the same as security for policyholders or claimants in respect of policies or other contracts issued, granted, or entered into in New Zealand by the company making such deposit, whether such policies or contracts have been granted or entered into before or after the coming into operation of this Act :

Deposits to be held in trust for policyholders.

Provided that the deposit made in respect of any class of insurance business shall be held in trust exclusively for policyholders and claimants as aforesaid in respect of that class of insurance business.

(2.) Until all the obligations in New Zealand of the company making such deposit in respect of such policies or contracts as aforesaid are cancelled, annulled, or liquidated, such deposit shall not be liable to be attached or levied upon, or be subject to any debts of or claims against such company, without the previous consent in writing of the Minister of Finance, who may give his consent on such terms and conditions as he thinks equitable, having regard to the interests of the persons as security for whom such deposits are held by the Public Trustee.

Not to be liable for debts of company without consent.

8. (1.) If any company which has made any deposit with the Public Trustee under this Act in respect of any class of insurance business ceases to carry on that class of business in New Zealand, such company may withdraw such deposit—

Conditions under which deposits may be withdrawn.

(a.) On the expiration of six months after service on the Public Trustee of a notice in writing, duly signed on behalf of the company, stating that the company has ceased to carry on that class of business in New Zealand, and proposes to withdraw such deposit ; and

(b.) On satisfying the Public Trustee that from the date of the service of such notice the company has not, except as to policies or contracts granted or made before such date, carried on that class of business in New Zealand ; and

(c.) On satisfying the Public Trustee that all the liabilities of the company in New Zealand in respect of that class of business are fully liquidated or provided for.

(2.) The Public Trustee shall cause every such notice as aforesaid, and also his decision with regard to every such proposed withdrawal, to be published at the cost of the company in such manner as he thinks fit.

9. If any company makes default in duly and fully complying with any of the requirements of this Act affecting such company, such company, and also its attorney, general agent, and every other

Penalty on default in complying with terms of Act.

agent, are respectively and severally liable to a fine not exceeding *fifty* pounds for every day during which such default continues.

If default continues,
company may be
prohibited from
carrying on business,

10. If any such default as aforesaid is continued for a period of three months the Minister of Finance may, by notice published in the *Gazette*, prohibit the defaulting company from carrying on business or any class of business in New Zealand, either absolutely or for such time as he declares. 5

Further penalty for
carrying on business
after notice
prohibiting.

11. If any such company as aforesaid, or any person as attorney, general agent, or other agent of such company or otherwise for or on behalf of such company, after the publication of such notice as last aforesaid, receives any application for insurance, or accepts any premium for insurance, or otherwise carries on the business of such company in New Zealand in contravention of such notice, then, in addition to and irrespective of the fine specified in section *nine* hereof, such company and every such person are respectively and severally liable to a fine of *one hundred* pounds for each and every act so done in breach of such notice. 10

In any action
incorporation of
company need not
be proved.

12. In any action or other proceedings it shall not be necessary to prove that a company has been incorporated, but it shall be sufficient to show that such company is carrying on business or has agreed by the style or description by which it is made a party to any action or other proceedings. 20

Repeals.

13. The Foreign Insurance Companies' Deposits Act, 1908, and the Foreign Insurance Companies' Deposits Amendment Act, 1910, are hereby repealed. 25

Schedules.

SCHEDULES

FIRST SCHEDULE.

DEPOSITS BY BRITISH COMPANIES NOW CARRYING ON INSURANCE BUSINESS IN NEW ZEALAND.

	£
In respect of fire insurance business	15,000
In respect of employers' liability insurance business	15,000
In respect of all other classes of insurance business	5,000

SECOND SCHEDULE.

DEPOSITS BY FOREIGN COMPANIES NOW CARRYING ON INSURANCE BUSINESS IN NEW ZEALAND.

	£
In respect of all classes of insurance business, and whether one only or more than one class of insurance business is carried on	35,000