

New Zealand.



ANALYSIS.

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1894, No. 29.

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| Title. | AN ACT relating to Foreign Assurance and Insurance Companies.
[18th October, 1894.] |
| Short Title. | BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—
1. The Short Title of this Act is "The Foreign Insurance Companies' Deposits Act, 1894." |
| Interpretation. | 2. In this Act, if not inconsistent with the context,—
"Accident insurance" means insurance against personal injury resulting from accident, and insurance under policies or contracts not extending over one year in duration against loss of life by accident :
"Approved securities" mean—
(a.) Government securities of New Zealand or any of the Australian Colonies ; |

(b.) Debentures issued or mortgages executed by any local authority within the colony, under any law now or hereafter in force, secured upon general or special rates, or upon real estate within the colony held in fee-simple;

(c.) Mortgages on the security of any real estate held in fee-simple within the colony and free from all encumbrances: Provided that no mortgage be accepted as a deposit for a sum exceeding two-thirds of the value of the security therefor;

(d.) Real estate held in fee-simple, or leasehold interests within the colony and free from all encumbrances;

(e.) Fixed deposits in any bank of issue established by or under any Act of the General Assembly or by Royal Charter, and carrying on business in the colony: Provided that such deposits be made in and be payable in the colony;

Or any of such securities:

“Company” means any association, person, or persons, corporate or unincorporate, registered or established for the purpose of carrying on (whether concurrently or not with any other class of business) any one or more of the following classes of insurance business, that is to say: the business of (1) life assurance, or (2) fire and marine insurance concurrently, or (3) fire insurance only, or (4) marine insurance only, or (5) accident insurance, or (6) insurance of any class not hereinbefore mentioned; and includes mutual associations as well as proprietary, but does not include the Government Insurance Department established under “The Government Insurance and Annuities Act, 1874”:

“Foreign company” means a company, as hereinbefore defined, registered or established out of the colony, and includes a local company whose chief office is situate out of the colony:

“Life assurance” includes endowment and annuity contracts, but does not include insurance against loss of life by accident, except where such insurance is effected by policies or contracts extending over a longer period than one year:

“Local company” means a company, as hereinbefore defined, registered or established within the colony.

PART I.

LIFE ASSURANCE COMPANIES.

3. (1.) Every foreign company which proposes to commence within the colony after the passing of this Act the business of life assurance, whether conjointly or not with any other class of business, shall, before commencing such life assurance business, deposit with

Foreign life assurance companies to deposit with Public Trustee £50,000.

the Public Trustee a sum of not less than five thousand pounds nor more than fifty thousand pounds in cash or approved securities.

(2.) Every foreign company which at the time of the passing of this Act is carrying on the business of life assurance within the colony, whether conjointly or not with any other class of business, shall, if it be intended to continue to carry on such life assurance business within the colony, deposit with the Public Trustee within six months after the passing of this Act a sum of not less than five thousand pounds nor more than fifty thousand pounds in cash or approved securities.

(3.) The cash and approved securities mentioned in subsections one and two hereof shall be calculated according to the scale in the Schedule hereto.

(4.) Every deposit of approved securities made with the Public Trustee under this section shall be deemed to be a compulsory deposit of securities within the meaning and for the purposes of "The Life Assurance Companies Act, 1873," which shall be read and construed for all purposes as if the deposits of approved securities required by this section were required by that Act.

(5.) Every such deposit is a deposit under Part I. of this Act.

PART II.

FIRE AND MARINE INSURANCE COMPANIES.

Foreign insurance companies to obtain from Public Trustee certificate authorising the carrying-on of business.

4. Every foreign company which proposes to commence within the colony after the passing of this Act the business of (a) fire insurance, or (b) marine insurance, or (c) fire and marine insurance, shall, before commencing any such business, and

Every foreign company which at the time of the passing of this Act is carrying on any such business as aforesaid within the colony shall, within six months from the passing of this Act,

Obtain from the Public Trustee a certificate, in form to be prescribed by the Governor, authorising the company named therein to carry on such business within the colony for the period of twelve months from the date named in such certificate.

If the Public Trustee shall refuse to grant a certificate, the company may apply to a Judge of the Supreme Court, who may direct him to issue a certificate, or may make such other order as he may deem just.

Statement of affairs to be furnished to Public Trustee, who shall issue certificate on resolution of Board.

5. For the purposes of such certificate every such company shall furnish to the Public Trustee a statement of its affairs for the period and in the form prescribed as aforesaid.

And the Public Trustee shall grant such certificate upon a resolution of the hereinafter-mentioned Board that it is satisfied of the financial stability of the company applying therefor.

Certificate remains in force for twelve months.

6. Such certificate shall continue in force for twelve months only, but a renewal thereof may be granted from year to year in like manner as the original was granted.

Unlawful to carry on business without certificate.

7. Save as aforesaid it shall not be lawful for any such company to carry on any such business within the colony without such certificate.

PART III.

ACCIDENT AND MISCELLANEOUS INSURANCE COMPANIES.

8. (1.) Every foreign company which proposes to commence within the colony, after the passing of this Act, the business of accident insurance, or insurance of any class not hereinbefore mentioned, shall, before commencing such business, deposit with the Public Trustee the sum of ten thousand pounds in cash or approved securities.

Foreign accident and miscellaneous companies to deposit with Public Trustee £10,000.

(2.) Every foreign company which at the time of the passing of this Act is carrying on any such business as last aforesaid within the colony shall, if it be intended to continue to carry on such business within the colony, deposit with the Public Trustee, in cash or approved securities, within six months from the passing of this Act, the sum of not less than five thousand pounds nor more than ten thousand pounds, calculated according to the scale in the Schedule hereto.

(3.) Every such deposit is a deposit under Part III. of this Act.

PART IV.

GENERAL.

9. No foreign company making the prescribed deposit under any one Part of this Act shall be required to make the prescribed deposit under any other Part thereof.

Foreign company not required to make more than one deposit.

10. No foreign company shall be deemed to continue to carry on business within the colony after a specified date by reason only of receiving premiums or other moneys, or liquidating liabilities, or doing acts after that date in respect of policies or other contracts granted or made before that date.

Receipt of premiums in respect of past contracts only not deemed a continuance of business.

11. (1.) If in any case the deposit made by any foreign company pursuant to subsection two of sections three or eight of this Act, within the time therein limited, do not amount to the maximum sum thereby prescribed, then further deposits shall be made half-yearly thereafter, according to the scale in the said Schedule, as the case may be, until the maximum sum is reached.

Where deposits under maximum, further deposits to be made as business increases.

(2.) For the purpose of ascertaining the amounts of such further deposits as aforesaid, every such foreign company shall, until it has deposited the prescribed maximum sum, send in to the Colonial Treasurer half-yearly, from and after the passing of this Act, a return, verified by the statutory declaration of the attorney or agent of the company within the colony, showing the total amount covered by all policies current at the end of such half-year, and that amount shall be deemed the "total amount assured by current policies" within the meaning of the Schedule hereto.

12. All cash deposited with the Public Trustee under this Act shall bear interest at the rate of four pounds per centum per annum, and the Public Trustee shall pay the same accordingly.

Four per cent. interest to be paid on deposits.

13. Every foreign company which has made any deposit with the Public Trustee under this Act shall be entitled to receive from time to time the income arising from such deposit.

Foreign company to receive income from deposits.

Deposits may be changed for others of equal value.

14. (1.) Every foreign company which has made deposit of approved securities with the Public Trustee under this Act may withdraw from his custody any such securities so deposited on depositing with him approved securities of an equal value, and any such substituted securities shall for all purposes be treated as securities originally deposited.

(2.) The Board appointed under "The Public Trust Office Act, 1872," shall, in any case of original or substituted deposit of approved securities, be the sole judge of the value of such securities for the purposes of such deposit, and its decision shall be final and conclusive on the depositor :

Provided that, where such securities consist of real estate, or leasehold interests or mortgages on the security of real estate, the assessment of the actual and improved value of such real estate and leasehold interests made by the Commissioner of Taxes under the provisions of "The Land and Income Assessment Act, 1891," shall be deemed to be the value of such real estate and leasehold interests for the purposes of such deposit.

Loss, &c., of securities to be made good out of moneys appropriated.

15. If, whilst any securities are deposited under this Act with the Public Trustee, they be lost, stolen, destroyed, or damaged, the injury sustained by the depositor, or by any other person interested therein, shall be made good out of moneys to be appropriated for the purpose by the General Assembly.

Deposits to be held in trust for policyholders.

16. (1.) Subject to the provisions of this Act, but without prejudice to the special trust in favour of life assurance policies registered, or to be registered, under the provisions of section nine of "The Life Assurance Companies Act, 1873," the Public Trustee shall, as to every deposit made under this Act, hold the same in trust for policyholders or claimants in respect of policies or other contracts issued, granted, or entered into in the colony by the foreign company making such deposit, whether such policies or contracts have been granted or entered into before or after the passing of this Act :

Provided that the deposit made under any one Part of this Act shall be held in trust exclusively for policyholders and claimants as aforesaid, in respect of the particular class of insurance business referred to under that Part.

Not to be liable for debts of company without consent.

(2.) Until all the obligations of such foreign company as aforesaid in the colony 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 Colonial Treasurer, who may give his consent on such terms and conditions as he may think equitable, having regard to the interests of the persons in trust for whom such deposits are held by the Public Trustee.

Conditions under which deposits may be withdrawn.

17. (1.) If any foreign company which has made any deposit with the Public Trustee under this Act ceases to carry on business in the colony, such company may withdraw such deposit—

(a.) On the expiration of six months after service upon the Public Trustee of a notice in writing, duly signed on behalf of the company, stating that the company has ceased to carry on business in the colony, 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 business in the colony; and
- (c.) On satisfying the Public Trustee that all the liabilities of the company in the colony 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 may think fit.

18. If any foreign company makes default in duly and fully complying with any of the requirements of this Act affecting such company, then in every such case, if no other penalty is elsewhere expressly provided, such company, and also its attorney, general agent, and other agent, are respectively and severally liable to a penalty of not more than fifty pounds for every day during which such default continues.

Penalty on default in complying with terms of Act.

19. If any such default as aforesaid be continued for a period of three months the Colonial Treasurer may, by notice published in the *New Zealand Gazette*, prohibit the defaulting company from carrying on business in the colony either absolutely or for such time as he may declare.

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

20. If any such foreign 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 within the colony, then, in addition to and irrespective of the penalty specified in section eighteen of this Act, such company and person are respectively and severally liable to a penalty of one hundred pounds for each and every act done in breach of this provision.

Further penalty for carrying on business after notice prohibiting.

21. 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.

In any action, company to be deemed incorporated.

22. All penalties imposed by this Act are recoverable in a summary way.

Penalties recoverable in summary way.

23. The Public Trustee shall, within thirty days after the beginning of each session of Parliament, prepare and lay before Parliament a statement made up to the date of the beginning of the session, and showing as to each foreign company making deposit under Part III. of this Act the nature and value of the securities so deposited.

Statement of nature and value of securities to be laid before Parliament.

24. This Act shall be read with "The Life Assurance Companies Act, 1873."

This Act to be read with "Life Assurance Companies Act, 1873."

SCHEDULE.

Schedule.

WHERE the total amount assured by current policies does not exceed £100,000, a deposit of £5,000; for every additional £100,000 of assurance, an increase of £5,000 in the deposit, until the total sum deposited amounts to £50,000.