LIFE ASSURANCE COMPANIES.

3° and 4° Geo. VI., No. XLVII.

No. 47 of 1939.

AN ACT to amend the Life Assurance Companies Act, 1889.

[*Assented to 23rd December,* 1939.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the *Life Assurance Companies Act Amendment Act*, 1939, and shall be read as one with the Life Assurance Companies Act, 1889, as reprinted in the Appendix to the Sessional Volume of Statutes for the year 1924, hereinafter referred to as the principal Act.

Amendment of s. 3 of the principal Act.

2. Section three of the principal Act is amended—

(a) by inserting after the definition of "Company" the following:—

Any reference in this Act to a company which issued the policy shall include a reference to any company which has become the successor (whether by amalgamation, transfer, purchase, arrangement or otherwise) of that company;

Industrial life assurance policy.

(b) by inserting after the definition of "Chairman" the following new definition:—

"Industrial life assurance policy" means a policy upon human life the premiums in respect of which are by the terms of the policy made payable at intervals of less than two months and are contracted to be received or are usually received by means of collectors of the company which issued the policy.

3. The following new sections are inserted after section thirty-three A of the principal Act as follows:—

Insertion of new sections 33B, 33C, 33D, 33E, 33F, and 33G.

33B. An industrial life assurance policy shall not be avoided on account of the non-payment of any premium unless—

Industrial life assurance policies not to be avoided immediately on account of non-payment of premiums.

(a) where the policy has been in force for less than one year—the premium has been unpaid for not less than four weeks after it became due and payable;

(b) where the policy has been in force for one year and less than two years—the premium has been unpaid for not less than eight weeks after it became due and payable;

(c) where the policy has been in force for two years and upwards—the premium has been unpaid for not less than twelve weeks after it became due and payable.

33C. Where in respect of an industrial life assurance policy which has been in force for three years there has been paid in premiums an amount equal to not less than the premiums payable in respect of that policy for such period of three years aforesaid, the policy holder shall be entitled to receive a paid-up policy.

When policy holder becomes entitled to a paid-up policy.

33D. (1) When a holder of an industrial life assurance policy becomes entitled to receive a paid-up policy then—

Circumstances in which paid-up policies to be granted.

(a) upon application in writing in that behalf to the company which issued the policy; or

(b) if the policy holder fails to pay to the company which issued the policy a premium payable in respect of the policy within twelve weeks after it becomes due and payable

the company shall, within one month after receiving such application or the expiration of such period (as the case may be), grant him a paid-up policy and furnish him with some documentary evidence setting forth the amount and date of such paid-up policy and the contingency or contingencies upon which it is payable.

It shall be a sufficient discharge of the obligation on the company under this subsection to furnish the policy holder with such documentary evidence, if such evidence is either delivered at the last known place of abode or business of the policy holder in a wrapper or envelope addressed to him thereat or sent so addressed prepaid through the post.

Method of ascertaining amount of paid-up value of policy.

(2) (a) The amount (exclusive of bonuses) of a paid-up policy shall in the case of endowment and endowment assurance policies be ascertained as provided in Part I. of the Tenth Schedule to this Act.

(b) The amount (exclusive of bonuses) of a paid-up policy shall in the case of whole life policies be ascertained as provided in Part II. of the Tenth Schedule to this Act.

Addition of bonuses.

(3) Where a policy holder is entitled to receive a paid-up policy pursuant to the provisions of the last preceding section there shall be added to the amount thereof, as ascertained as aforesaid, all bonuses declared upon the original policy in respect of the period between a date five years after the issue of the original policy and the date of the grant of such paid-up policy.

Where moneys owing to company on security of original policy.

(4) When pursuant to the foregoing provisions of this section a company is required to grant a paid-up policy to a policy holder and there are any moneys owing to the company on the security of the original policy the company may elect:—

(a) to treat the moneys so owing as moneys secured on the paid-up policy, and thereupon the paid-up policy shall be a security for the moneys so owing; or

(b) in the ascertainment of the amount of the paid-up policy to reduce the same by taking into account upon a basis approved by the Government Actuary the moneys so owing to the company, and thereupon such moneys shall cease to be owing to the company.

33E. (1) Where in respect of any industrial life assurance policy which has been in force for a period of six years there has been paid in premiums an amount equal to not less than the premiums payable during such period of six years aforesaid, the policy holder shall be entitled to surrender his policy, and upon making an application in writing in that behalf to the company which issued the policy be entitled to receive in cash a surrender value therefor.

When policy holders entitled to surrender policies and receive surrender value therefor.

(2) Where a policy holder has received a paid-up policy, he shall at any time after the expiration of the period of six years after the date of the original policy be entitled to surrender such paid-up policy, and upon making an application in writing in that behalf to the company which issued the policy be entitled to receive in cash a surrender value therefor.

(3) (a) The surrender value referred to in subsection (1) or subsection (2) of this section shall be the present value, calculated as at the date when the application aforesaid is received by the company, of the paid-up policy which the policy holder is entitled to receive from the company at the said date or of the paid-up policy received by the policy holder (as the case may be).

(b) Such present value shall be ascertained by the use of a table of mortality and rate of interest prescribed by regulations made under this Act.

(4) Notwithstanding anything in the foregoing provisions of this section, the surrender value which a policy holder is entitled to receive as aforesaid shall not in any case exceed the amount which would be payable under the policy upon the death of the person whose life is assured if such death had occurred on the date when the application aforesaid was received by the company.

33F. Where the rights of a holder of an industrial life assurance policy apart from sections thirty-three B, thirty-three C, thirty-three D and thirty-three E of this Act to and in relation to a paid-up policy are more favourable to the policy holder than the rights conferred by this Act, nothing in this Act shall prevent the policy holder from claiming under the first mentioned rights instead of under the rights so conferred by this Act.

Saving of certain rights of certain policy holders.

Application of Act.

33G. Sections thirty-three B, thirty-three C, thirty-three D, thirty-three E, and thirty-three F of this Act shall—

(a) apply to industrial life assurance policies (including paid-up policies) in force at the commencement of this Act as well as to all such policies issued hereafter; and

(b) take effect notwithstanding anything in any policy (including any paid-up policy) or agreement to the contrary.

33H. Every industrial life assurance policy issued after the passing of this Act and every current and subsequent industrial premium receipt book shall have printed thereon in clear and legible type, a notification to the effect that the policy shall not become void for non-payment of premiums unless a premium has been overdue for at least four weeks or such longer period as may be provided by statute or by the company's regulations for the time being.

Insertion of new section 60A.

4. A new section is inserted in the principal Act as follows after section sixty:—

Bonds, guarantees, or other securities not to be required from employees of company.

60A. No company and no person with the instructions, or, on behalf of such company, shall request, require, or receive from any person making application for employment with or actually employed by such company (whether as a clerk, agent, canvasser, collector or otherwise) a bond, guarantee, or other security executed by such person and some other person or persons as guarantor or guarantors to secure payment to the company of any moneys coming to the hands of such person as clerk, agent, canvasser, collector, or otherwise, unless such bond, guarantee, or other security be limited to cover the amount of cash shortages in such person's accounts, and losses sustained by the company through his fraud or misconduct.

The breach or attempted breach of any of the provisions of this section shall be an offence against this Act and shall be punishable by a fine not exceeding fifty pounds to be imposed upon the company and any person acting with the instructions of or on behalf of the company.

The provisions of this section shall not apply to a fidelity guarantee issued by any incorporated company carrying on the business of fidelity guarantee insurance.

5. Section sixty-three of the principal Act is amended by deleting the words "Tenth Schedule" in the fourth line in the said section and substituting therefor the words "Ninth Schedule." Amendment of s. 63 of the principal Act.

6. The following new section is inserted after section seventy-one of the principal Act as follows:— Insertion of new section.

72. The Governor in Council may make regulations for or with respect to prescribing— Regulations

(a) tables of mortality for the purposes of the rules contained in Part II. of the Tenth Schedule to this Act and to be used in the calculation of surrender values;

(b) the rate of interest to be used in the calculation of surrender values; and

(c) any matters which are necessary or expedient to be provided for giving effect to the provisions of this Act.

7. A Schedule is inserted in the principal Act after the Ninth Schedule, to stand as the Tenth Schedule, as follows:— Insertion of new Schedule: Tenth Schedule.

TENTH SCHEDULE.

PART I.

The amount of a paid-up policy, exclusive of bonuses, in the case of endowment and endowment assurance policies, shall be ascertained in the following manner:—

By ascertaining the sum which bears to the original sum assured, the same proportion as the number of complete months in the period for which premiums have been paid on the policy bears to the number of complete months in the period for which premiums were originally payable and taking in respect of the undermentioned policies the following percentages of the sum so ascertained:—

(1) For policies in respect of which there has been paid in premiums an amount equal to the premiums payable in respect of that policy for any period of not less than three but less than four years—seventy per centum.

(2) For policies in respect of which there has been paid in premiums an amount equal to the premiums payable in respect of that policy for any period of not less than four but less than five years—eighty per centum; and

(3) For policies in respect of which there has been paid in premiums an amount equal to the premiums payable in respect of that policy for any period of five years and upwards—ninety per centum.

PART II.

The amount of the paid-up policy, exclusive of bonuses, in the case of whole of life policies, shall be ascertained in accordance with the following rules:—

(1) Rule for ascertaining the amount of a paid-up policy:—

The amount of a paid-up policy shall be a sum bearing the same proportion to ninety per centum of the value of the policy as the sum of one pound bears to the value of the reversion in the sum of one pound, according to the contingency upon which the sum assured under the original policy was payable.

(2) Rules for valuing policies:—

The value of the policy, for the purpose of the preceding rule, shall be determined in the following manner:—

(a) The value of the policy shall be the difference between the present value of the reversion in the sum assured according to the contingency upon which it is payable and the present value of the future net premiums.

(b) The net premium shall be such premium as according to the assumed rate of interest and rates of mortality and the age of the person whose life is assured at his birthday next following the date of the policy is sufficient to provide for the risk incurred by the company in issuing the policy exclusive of any addition thereto for office expenses and other charges.

Provided that the date of the policy may be assumed to be one year after the actual date.

(3) General rules applicable both for valuing the policy and for ascertaining the amount of the paid-up policy:—

(a) Interest shall be assumed at the rate of four per centum per annum.

(b) The rates of mortality shall be assumed according to such tables as are from time to time prescribed.

(c) The age of the person whose life is assured shall be obtained by adding to the age attained by him at his birthday next after the date of the issue of the policy, the duration of the policy in completed years and months at the date as at which the value of the policy is required to be ascertained.

Citation of principal Act as amended.

8. The principal Act as amended by this Act may be cited as the Life Assurance Companies Act, 1889-1939.