
LIFE ASSURANCE COMPANIES ACT.

53 Vic., No. XII.

[Reprinted as amended by No 12 of 1905.]

AN ACT to regulate Life Assurance.

[Assented to 4th December, 1889.]

WHEREAS it is expedient to encourage the practice of Life Assurance, and to protect persons assured: Be it therefore enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

1. This Act is divided into three parts, as follows:— Division.

PART I.—PRELIMINARY.

PART II.—PROVISIONS FOR SECURITY OF ASSURED.

PART III.—APPLICATION OF COMPANIES ACT, PROCEDURE, AND MISCELLANEOUS.

PART I.—PRELIMINARY.

2. This Act may be cited as the *Life Assurance Companies Act, 1889.* Short title.

3. In this Act the following terms have the following meanings, unless the context requires a different construction— Interpretation.

“Bankruptcy” includes any proceeding under the Bankruptcy Act, 1892, or any Act amending the same, whereby the property of the debtor becomes vested in any other person for division among creditors. No. 12 of 1905, s. 5.

“Company” means any persons corporate or unincorporate, who grant assurances, endowments, or annuities upon human life within Western Australia.

“Chairman” means the person for the time being presiding over the board of directors, committee of management, or other managing body in Western Australia of the company.

Amended by No. 12
of 1905, sec. 5.

“Policy” means any contract for assurance, endowment, or annuity on human life, and includes all moneys, howsoever payable, assured thereby, or which may be paid or become payable thereunder, and all the property and interest therein of the person assured.

“Life assurance business” means the granting of policies.

“Financial year” means each period of twelve months at the end of which the balance of the accounts of the company is struck, or if no such balance is struck, then each period of twelve months ending with the thirty-first day of December.

“Court” means the Supreme Court of Western Australia.

“Registrar” means the Registrar of Joint Stock Companies under the Joint Stock Companies Ordinance, 1858.

“Local company” means a company having its head office in Western Australia.

“Foreign company” means a company not having its head office in Western Australia.

No. 12 of 1905,
sec. 5.

“Will” includes codicil.

PART II.—PROVISIONS FOR SECURITY OF ASSURED.

Companies to
deposit securities
with Treasurer.

4. Every company which shall commence or carry on the business of life assurance within the colony shall deposit with the Colonial Treasurer securities to the value of Ten thousand pounds, being mortgages of freehold real estate in Western Australia, on which the money advanced does not exceed two-thirds of the value of the estate mortgaged, or title deeds or certificates of real estate, or bonds, debentures, treasury bills, or other securities issued by the Government, or by any municipal corporation in the Colony, duly authorised in that behalf, or the receipt of some incorporated or chartered joint stock bank carrying on business in Western Australia, and approved by the Colonial Treasurer, for moneys placed on fixed deposit at the said bank in the name

of the Colonial Treasurer, the income arising from such deposit being received by the company: Provided always, that any local company shall not be required to deposit more than fifty per centum on the amounts of the premiums actually received until the deposit shall amount to Ten thousand pounds.

5. As regards any company which now carries on the business of life assurance in Western Australia, the deposit may be made at any time not later than one year after this Act shall come into operation; and as regards any company formed after this Act, the deposit may be made at any time within six months of its incorporation or registration; and no company shall be deemed to carry on the business of life assurance by reason only of receiving premiums in respect of policies issued before this Act shall come into operation.

Time for making deposits.

6. Every company which shall carry on the business of life assurance in Western Australia shall send in annually to the Colonial Treasurer, on or before the first day of June in each year, returns, verified by the certificate of the agent or principal officer of the company in Western Australia, of the amounts received and paid by the company during the year ending the thirty-first day of December then last, or on such other date as the financial year of each company shall determine, on account of policies issued in Western Australia by the company, whether before or after the commencement of this Act, and shall, until the total amount deposited by the company under section four and this section shall amount to the sum of Twenty thousand pounds, deposit with the Colonial Treasurer securities similar to those mentioned in section four to the value of twenty-five per centum of the excess of the receipts over the disbursements appearing from such returns.

Further deposits to be made out of receipts.

7. If any securities deposited under this Act are, whilst so deposited, lost, stolen, destroyed, or damaged, the injury occasioned to all persons interested shall be made good out of moneys to be appropriated for the purpose by an Act of the Legislative Council.

Provision in case of loss of securities.

8. Any company may from time to time deposit with the Colonial Treasurer any securities of any kind, and to any amount, besides and beyond the securities hereby required to be deposited.

Further deposits may be made.

Income and withdrawal of deposits.

9. Any company depositing any securities under this Act shall be entitled to receive the income therefrom, and securities deposited may be withdrawn on timely notice, and, where the deposit is compulsory, on the substitution of similar securities of equal value, and the decision of the Colonial Treasurer shall be conclusive in all matters relating to the value of securities under this Act.

Securities deposited to be charged with liabilities in Western Australia.

10. All securities deposited with the Colonial Treasurer under this Act shall be primarily charged with the payment and satisfaction of all the liabilities in Western Australia of the depositing company, whether arising in respect of policies issued before or after the commencement of this Act or otherwise howsoever and no part of such securities shall be applied in payment of any liabilities other than those so charged as aforesaid until the whole of such last-mentioned liabilities shall be paid in full.

Discharge of Western Australian liabilities of foreign companies.

11. Every foreign company shall keep a separate account of all the life assurance business transacted in Western Australia, and of the entire assets of the company in Western Australia; and in the event of the company becoming bankrupt, or being ordered to be wound up, the entire assets of the company in Western Australia shall be applied, so far as the same will extend, in or towards satisfaction of the liabilities of the company in Western Australia, and no part of such assets shall be applied in payment of any liabilities of the company incurred elsewhere than in Western Australia until the whole of the liabilities incurred in Western Australia shall have been paid in full.

Mode of distribution of assets of insolvent foreign company.

12. If any foreign company is adjudged bankrupt, or ordered to be wound up, elsewhere than in Western Australia, such company, so far only as regards its assets and liabilities in Western Australia, may, upon the application of any policyholder or shareholder, be ordered to be wound up in Western Australia in like manner as if such company were registered under the Joint Stock Companies Ordinance, 1858, and proof of such company having become adjudged bankrupt, or ordered to be wound up, shall be conclusive evidence that it is unable to pay its debts.

Penalty for infringement of Act.

13. Any director, agent, officer, or servant of any company wilfully committing or assisting in the commission of any breach of the provisions of section eleven shall be deemed

guilty of a breach of trust, and be held liable to replace the amount applied contrary to the said section, and shall also be deemed guilty of a misdemeanour punishable on conviction, at the discretion of the Court, by imprisonment for any term not exceeding three years, or by a fine not exceeding Five hundred pounds.

14. Every company transacting other business besides life assurance business shall keep a separate account of all receipts after the passing of this Act in respect of the life assurance business of the company, and the said receipts shall be carried to and form a separate fund to be called the "Life Assurance Fund" of the company, and such fund, however invested, shall be as absolutely the security of the life assurance policy-holders as though it belonged to a company carrying on no other than life assurance business, and shall not be liable for any contracts of the company for which it would not have been liable had the business of the company been only life assurance business.

Separation of life assurance and other business.

15. In respect to all existing companies the exemption of the life assurance fund from liability for other obligations than to its life assurance policy-holders shall have reference only to the contracts entered into after the passing of this Act, unless by the constitution of the company such exemption already exists; but this and the preceding section shall not apply to any contracts made by any existing company by the terms of whose deed of settlement or articles of association the whole of the profits of all the business are paid exclusively to the life and endowment policy or annuity holders and on the face of which contracts the liability of the insurers distinctly appears: Provided, always, that this Act shall not diminish the liability of the life assurance fund for any contracts of the company entered into before the passing of this Act.

Application of preceding section to existing companies.

16. Every company transacting life assurance business only shall, at the expiration of each financial year or half-year of such company, prepare a statement of its revenue account for such year or half-year, and of its balance-sheet at the close of such year or half-year, in the forms respectively contained in the First and Second Schedules to this Act.

Accounts to be rendered by life assurance companies.

Accounts to be rendered by companies carrying on life assurance and other business.

17. Every company which concurrently with the transaction of life assurance business, transacts any other kind of assurance or other business, shall, at the expiration of each financial year of such company, prepare a statement of its revenue account for such year, and of its balance-sheet at the close of such year, in the forms respectively contained in the Third and Fourth Schedules to this Act.

Accounts to be rendered by foreign companies.

18. Every foreign company shall, at the expiration of each financial year of such company, prepare, in addition to all other statements required by this Act, a statement of all its policies in force at the close of such year, in the form contained in the Fifth Schedule to this Act.

Actuarial report and abstract.

19. Every company shall, once in five years, or at such shorter intervals as may be prescribed by the instrument constituting the company, or by its articles of association, regulations, or by-laws cause an investigation to be made into its financial condition by an actuary and shall cause an abstract of the report of such actuary to be made in the form prescribed in the Sixth Schedule to this Act.

Statement of life annuity business.

20. Every company shall, on or before the thirty-first day of December, One thousand eight hundred and ninety, and thereafter within nine months after the date of each such investigation as aforesaid into its financial condition, prepare a statement of its life assurance and annuity business, in the form contained in the Seventh Schedule to this Act, each of such statements to be made up as at the date of the last investigation, whether such investigation be made previously or subsequently to the passing of this Act: Provided as follows—

- (1) If the next financial investigation, after the passing of this Act, of any company fall during the year One thousand eight hundred and ninety-one, the said statement of such company shall be prepared within nine months after the date of such investigation instead of on or before the thirty-first day of December, One thousand eight hundred and ninety.
- (2) If such investigation be made annually by any company, such company may prepare such statement at any time, so that it be made at least once in every three years.

The expression "date of each such investigation," in this section, shall mean the date to which the accounts of each company are made up for the purposes of each such investigation.

21. Any company whose head office or principal place of business is not in Western Australia may, in lieu of the statement and abstract mentioned in the preceding two sections, deposit at the office of the registrar a copy, certified in accordance with the seventeenth section of the Act of the Imperial Parliament known as the Life Assurance Companies Act, 1870, of the last preceding statement or abstract deposited with the Board of Trade in conformity with the provisions of the tenth section of the said Act.

Forms authorised by Imperial Statute, "Life Assurance Companies Act, 1870," may be used in certain cases.

22. The Governor may alter the forms contained in the schedules to this Act, for the purpose of adapting them to the circumstances of any company, or of better carrying into effect the objects of this Act.

Forms may be altered.

23. Every statement or abstract hereinbefore required to be made shall be signed by the chairman and two of the directors or committee of management, or by the agent of the company in Western Australia, and by the principal officer or agent managing the life assurance business of the company in Western Australia, and if the company has a managing director in Western Australia, by such managing director, and shall be printed; and the original so signed as aforesaid, together with three printed copies thereof, shall be deposited at the office of the registrar within three months of the dates respectively hereinbefore prescribed as the dates at which the same are to be prepared; and every annual statement so deposited after the first investigation after the passing of this Act, shall be accompanied by a printed copy of the abstract required to be made as aforesaid.

Statement, &c., to be signed and printed and deposited with Registrar.

24. A printed copy of the last deposited statement, abstract, or other document, by this Act required to be printed, shall be forwarded by the company, by post or otherwise, to every shareholder, member, and policy-holder of the company in Western Australia.

Copies to be furnished.

25. Every foreign company shall, within six calendar months after the coming into operation of this section, or before doing business in Western Australia, in writing, appoint

Agent to be appointed for foreign companies.

a person resident therein as general agent, upon whom all lawful processes against the company may be served with like effect as if the company existed in this province; and the said writing or power of attorney shall stipulate and agree, on the part of the company making the same, that any lawful process against the said company which is served on the said general agent shall be of the same legal force and validity as if served on the said company.

Copy of writing to be filed in office of Registrar.

26. A copy of the writing, duly certified and authenticated, shall be filed in the office of the registrar, and copies certified by him shall be sufficient evidence in all courts of law and in all judicial proceedings.

Agency to continue as long as any liability outstanding in the Colony.

27. The said agency shall continue while any liability remains outstanding against the company in Western Australia, and the power shall not be revoked until the same power is given to another such agent and a like copy filed as aforesaid.

Service of process, &c., on agent sufficient.

28. Service of any process, notice, or otherwise upon the said agent shall be deemed sufficient service upon the principal.

Penalty for non-compliance.

29. No person shall act either as general or other agent of a foreign company until he has complied with all the requirements of this Act; and every person so acting without such compliance, or who knowingly procures payment, or any obligation for the payment, of any premium for insurance or endowment, or for sale of an annuity by fraudulent representations, shall be liable to a penalty not exceeding Two hundred and fifty pounds for each offence.

When contracts valid.

30. Every contract for life assurance made by any foreign company without complying with the provisions of this Act contained in the sections numbered twenty-five to twenty-nine, both inclusive, shall be valid and binding on the company; but the agent making the contract shall be liable to the penalty provided in section thirty-one of this Act; and any such company which neglects to appoint and keep appointed a general agent agreeably to the provisions of this Act shall not recover any premium or other payment on any contract of life assurance with a person resident in Western Australia.

31 Every company which makes default in complying with the provisions of this Act shall not only be liable to the penalties set forth in the forty-fourth section, but may also, if it be made to appear to the Governor that such default has continued for a period of three months, be prohibited by the Governor from transacting business within the province, either absolutely or for a time, as the Governor may think fit.

Companies may be prohibited from transacting business in certain cases.

32. Such absolute or temporary prohibition shall be published in the *Government Gazette* of Western Australia; and if any such company, or any person as agent for such company, or otherwise for or on behalf of any such company, shall, after such absolute prohibition, or during any such temporary prohibition, receive any applications for any life assurance, or accept any premium for any life assurance, or otherwise carry on the business of life assurance within Western Australia, such company and person shall respectively be liable to a penalty of Two hundred and fifty pounds.

Prohibition to be published in *Government Gazette*.

33. The property and interest of the assured in a policy effected upon his own life shall not be liable to be applied or made available in payment of his debts by any judgment, order, or process of any court, and shall not, in the event of his bankruptcy, pass to the official receiver or the trustee or assignee of his estate.

Interest of assured protected in certain cases. No. 12 of 1905, Sec. 2.

In the case of an assured person dying after the passing of this Act, the moneys payable upon the death of the assured under or in respect of a policy effected upon his life shall not be liable to be applied or made available in payment of his debts by any judgment, order, or process of any court, or in any other manner whatsoever, except by virtue of a contract or charge made by the assured in his lifetime, or by virtue of an express direction contained in his will or other testamentary instrument executed by him, that the moneys arising from the policy shall be so applied.

A direction to pay debts, or a charge of debts upon the whole or any part of the testator's estate, or a trust for the payment of debts, shall not be deemed to be such an express direction:

Provided that, in case of the death of the assured within three years from the date of the policy, a sum equal to all sums which have been paid by way of premium on such policy, with simple interest thereon at the rate of five pounds per

centum per annum, shall be set apart from the moneys payable under the policy, and shall be available for the payment of the debts of the assured:

Provided also that the provisions of this section—

- (a) shall not apply, except in case of the death of the assured, until the policy shall have endured for at least two years; and
- (b) shall only apply to policies the payments for which to the company issuing the same are, by the policy, provided to be made during the lifetime of the assured, or during ten years at least, and to be payable by equal instalments at intervals of not more than a year.

Former payments to discharge liability. No. 12 of 1905, Sec. 3.

33a. All payments heretofore *bonâ fide* made by any company under any policy protected under the principal Act to any executor or administrator of the assured shall discharge the company having paid the same from all liability to pay or account therefor to any other person claiming the same; and all payments heretofore *bonâ fide* made by any executor or administrator of any money received by him under any policy so protected as aforesaid shall discharge the executor or administrator having paid the same from all liability to pay or account therefor to any other person claiming the same.

PART III.—APPLICATION OF COMPANIES ACT, PROCEDURE, AND MISCELLANEOUS.

Application of Companies Act to life assurance companies.

34. The provisions of the Joint Stock Companies Ordinance, 1858, and of any Act amending the same, shall apply to life assurance companies, except in so far as such provisions are modified by this Act, and except also that no life assurance company shall be required to hold more than one general meeting in the year.

List of shareholders.

35. Every proprietary company shall provide a book, to be called "the Shareholders' Address Book," in which the company shall cause to be entered from time to time, in alphabetical order, the corporate names and places of business of the several shareholders of the company being corporations, and the surnames of the several other shareholders, with their respective christian names, places of abode, and descriptions, so far as the same shall be known to the company; and every

policy-holder or shareholder, or if such shareholder or policy-holder be a corporation, the clerk or agent of such corporations, may at all convenient times peruse such book *gratis*, and the company shall furnish on application, to every shareholder and policy-holder of the company, a copy of such book, or of any part thereof, on payment of a sum not exceeding sixpence for every hundred words to be copied for such purpose.

36. Every company which is not registered under the Joint Stock Companies Ordinance, 1858, shall cause a sufficient number of copies of its deed of settlement, Act, or charter of incorporation or other instrument regulating the constitution of the company, to be printed, and shall furnish on application to every shareholder and policy-holder of the company a copy thereof, on payment of a sum not exceeding two shillings and sixpence.

Deed of settlement to be printed.

37. Where it is intended to amalgamate two or more companies, or to transfer the life assurance business of one company to another, the directors of any one or more of such companies may apply to the court by petition to sanction the proposed arrangement, fourteen days' previous notice of such application being published in the *Government Gazette* of Western Australia, and the Court, after hearing the directors and other persons whom it considers entitled to be heard upon the petition, may confirm the same if it is satisfied that no sufficient objection to the arrangement has been established.

Amalgamation or transfer.

38. Before any such application is made to the court, notice of such application, together with a statement of the nature of the amalgamation or transfer, as the case may be, and an abstract containing the material facts embodied in the agreement or deed under which such amalgamation or transfer is proposed to be effected, and copies of the actuarial or other reports upon which such agreement or deed is founded, shall be forwarded to each policy-holder of both companies in cases of amalgamation, or to each policy-holder of the transferred company in case of transfer by the same being transmitted through the post, directed according to the registered or other known address of such policy-holder, within such period as to admit of its being delivered in the due course of delivery fourteen days at least before the day named for the hearing of such application; and in proving such service it shall be sufficient to prove that such notice was

Procedure.

properly addressed and put into the post office; and the agreement or deed under which such amalgamation or transfer is effected shall be open for inspection of the policy-holders and shareholders at the office or offices of the company or companies for a period of fifteen days after the issuing of the abstract herein provided.

Conditions. 39. The court shall not sanction any amalgamation or transfer in any case in which it appears to the court that policy-holders representing one-fifth or more of the total amount assured in any company which it is proposed to amalgamate, or in any company the business of which it is proposed to transfer, dissent from such amalgamation or transfer.

Confirmation. 40. No company shall amalgamate with another, or transfer its business to another, unless such amalgamation or transfer is confirmed by the court in accordance with this section: Provided always, that this section shall not apply in any case in which the business of any company which is sought to be amalgamated or transferred does not comprise life assurance business.

Statements in case of amalgamation or transfer. 41. When an amalgamation takes place between any companies, or when the business of one company is transferred to another company, the combined company or the purchasing company, as the case may be, shall, within ten days from the date of the completion of the amalgamation or transfer, deposit at the office of the registrar certified copies of statements of the assets and liabilities of the companies concerned in such amalgamation or transfer, together with a statement of the nature and terms of the amalgamation or transfer, and a certified copy of the agreement or deed under which such amalgamation or transfer is effected, and certified copies of the actuarial or other reports upon which such agreement or deed is founded, and the statement and agreement or deed of amalgamation or transfer shall be accompanied by a declaration under the hand of the chairman of each company, and the principal managing officers of each company, that to the best of their belief, every payment made, or to be made, to any person whatsoever on account of the said amalgamation or transfer, is therein fully set forth, and that no other payments beyond those set forth have been made or are to be made either in money, policies, bonds, valuable securities, or other property, by or with the knowledge of any parties to the said amalgamation or transfer.

42. Where a company, either before or after the passing of this Act, has transferred its business to, or been amalgamated with, another company, no policy-holder in the first-mentioned company who shall pay to the other company the premiums accruing due in respect of his policy shall, by reason of any such payment made after the passing of this Act, or by reason of any other act done after the passing of this Act, be deemed to have abandoned any claim which he would have had against the first-mentioned company on due payment of premiums to such company, or to have accepted, in lieu thereof, the liability of the other company, unless such abandonment and acceptance have been signified by some writing signed by him, or by his agent lawfully authorised.

Regulation as to novations by policy-holders.

43. Any person may, on payment of such fees as the Governor may direct, inspect at the office of the registrar any printed or other document required by this Act to be deposited at such office, and procure copies thereof.

Inspection of deposited documents.

44. Every statement, abstract, or other document deposited with the registrar under this Act shall be receivable in evidence, and every document purporting to be certified by the registrar to be such deposited document, and every document purporting to be similarly certified to be a copy of such deposited document, shall, if produced out of the custody of the registrar, be deemed to be such deposited document as aforesaid, or a copy thereof, and shall be received in evidence as if it were the original document, unless some variation between it and the original document shall be proved.

Documents to be received in evidence.

45. Every company which makes default in complying with the requirements of this Act, and shall continue in such default for seven days after notice by the registrar, or any person interested in the matter of such default, shall be liable to a penalty not exceeding Fifty pounds for every day during which the default continues; and in the case of a foreign company the general agent shall be liable to such penalty as well as the company; and in the case of companies registered under the Joint Stock Companies Ordinance, 1858, if default continues for a period of three months after notice of default by the Colonial Treasurer, which notice shall be published in one or more newspapers as the Colonial Treasurer may direct, the court may order the winding up of the company, in accordance with the said Act, upon the application of one or more policy-holders or shareholders.

Penalty for non-compliance with Act.

Penalty for falsifying statements.

46. If any statement, abstract, or other document required by this Act is false in any particular to the knowledge of any person who signs the same, such person shall be guilty of a misdemeanour, and being convicted thereof shall be liable, at the discretion of the court, to be imprisoned for any term not exceeding three years, or to a penalty not exceeding Five hundred pounds.

Surrender value to be declared.

47. Every life assurance society shall declare the surrender value at which the said society becomes bound to accept their policies.

Recovery and application of penalties.

48. Every penalty imposed by this Act shall be recovered and applied in the same manner as penalties imposed by the Joint Stock Companies Ordinance, 1858, are recoverable and applicable.

Winding up of company.

49. The court may order the winding up of any company in accordance with the Joint Stock Companies Ordinance, 1858, on the petition of five or more policy-holders or shareholders, upon its being proved to the satisfaction of the court that the company is insolvent; and in determining whether or not the company is insolvent the court shall take into account its contingent or prospective liability, under policies and annuity and other existing contracts.

Security for costs.

50. The court shall not give a hearing to the petition until security for costs, for such amount as a judge shall think reasonable, shall be given, and until a *prima facie* case shall also be established to the satisfaction of the judge.

Proprietary company.

51. In the case of a proprietary company having an uncalled capital of an amount sufficient, with the future premiums receivable by the company, to make up the actual invested assets equal to the amount of the estimated liability, the court shall suspend further proceedings on the petition for a reasonable time (in the discretion of the court) to enable the uncalled capital, or a sufficient part thereof, to be called up, and if, at the end of the original or any extended time for which the proceedings have been suspended, such an amount shall not have been realised by means of calls as with the already invested assets shall be equal to the liabilities, an order shall be made on the petition as if the company had been proved insolvent.

52. Where the business or any part of the business of a company has, either before or after the passing of this Act, been transferred to another company, under an arrangement in pursuance of which such first-mentioned company (in this Act called the subsidiary company), or the creditors thereof, has or have claims against the company to which such transfer was made (in this Act called the principal company), then, if such principal company is being wound up by or or under the supervision of the court, either at or after the passing of this Act, the court shall (subject as hereinafter mentioned) order the subsidiary company to be wound up in conjunction with the principal company, and may, by the same or any subsequent order, appoint the same person to be liquidator for the two companies, and make provisions for such other matters as may seem to the court necessary, with a view to such companies being wound up as if they were one company, and the commencement of the winding up of the principal company shall, save as otherwise ordered by the court, be the commencement of the winding up of the subsidiary company. The court, nevertheless, shall have regard, in adjusting the rights and liabilities of the members of the several companies between themselves, to the constitution of such companies, and to the arrangements entered into between the said companies, in the same manner as the court has regard to the rights and liabilities of different classes of contributories in the case of the winding up of a single company, or as near thereto as circumstances admit.

Winding up of subsidiary company.

53. The court, in the case of a company which has been proved to be insolvent, may, if it thinks fit, reduce the amount of the contracts of the company or society, upon such terms and subject to such conditions as the court thinks fit, in place of making a winding-up order.

Contracts of insolvent company may be reduced.

54. Where any subsidiary company, or company alleged to be subsidiary, is not in process of being wound up at the same time as the principal company to which it is subsidiary, the court shall not direct such subsidiary company to be wound up unless after hearing all objections (if any) that may be urged by or on behalf of such company against its being wound up, the court is of opinion that such company is subsidiary to the principal company, and that the winding up of such company in conjunction with the principal company is just and equitable.

Provision in case of subsidiary company not being in process of winding up.

- Application for winding up subsidiary company. 55. An application may be made in relation to the winding up of any subsidiary company in conjunction with the principal company by any creditor or policy-holder of, or person interested in, such principal or subsidiary company.
- Grouping of companies. 56. Where a company stands in the relation of a principal company to one company, and in the relation of a subsidiary company to some other company, or where there are several companies standing in the relation of subsidiary companies to one principal company, the court may deal with any number of such companies, together or in separate groups, as it thinks most expedient upon the principles laid down in this section.
- Valuation of policies. 57. Where a company is being wound up by the court, or subject to the supervision of the court, or voluntarily, the value of every life annuity and life policy requiring to be valued shall be estimated in manner provided by the Eighth Schedule.
- Notice of valuation to be given. 58. When an assurance company is being wound up by the court, or subject to the supervision of the court, the official liquidator, in case of all persons appearing by the books of the company to be entitled to or interested in policies granted by such company for life assurance endowment, annuity, or other payment, is to ascertain the values of such policies, and give notice of such value to such persons; and any person to whom notice is so given shall be bound by the value so ascertained, unless he give notice of his intention to dispute such value in manner and within a time to be prescribed by a rule or order of the court.
- Notices to policy-holders. 59. Any notice which is by this Act required to be sent to any policy-holder may be addressed and sent to the person to whom notices respecting such policy are usually sent, and any notice so addressed and sent shall be deemed and taken to be notice to the holders of such policy.
- Statements to be laid before Legislative Council. 60. There shall be laid annually before the Legislative Council the statements and abstracts of reports deposited with the registrar under this Act during the preceding year.
- Probate or administration may be dispensed with in certain cases. 61. Upon the death of any holder of a policy upon his own life for a sum not exceeding Two hundred pounds, if no probate of his will or letters of administration to his estate be

taken out within three months after his death, the company may pay the amount of such policy to his widow, or any adult child of his, and the receipt of such widow or child shall be a valid discharge, both at law and in equity, for the same.

62. The receipt of the executor or administrator of any deceased policy-holder shall be a valid discharge, both at law and in equity, for any moneys payable under the policy held by him at the time of his death.

Receipts of executors or administrators valid discharges.

63. Every assignment made after the first day of January, One thousand eight hundred and ninety, of a policy, may be made by memorandum of transfer indorsed upon such policy, in the form in the Tenth Schedule, and no such assignment shall be of any validity until registered as hereinafter provided.

Assignment of policies.

64. Notice of every such assignment shall be given to the company for the time being liable upon the policy assigned, and such assignment shall be registered in a book to be provided by the company for that purpose, and the date of such registration shall be inserted in the memorandum of transfer, which shall be also signed by the principal officer managing the life assurance business of the company in Western Australia, or his deputy, and thereafter the assignee may sue, as well at law as in equity, in his own name, on the policy assigned, and the receipt of such assignee shall be a valid discharge, both at law and in equity, for all moneys payable thereunder. Every such memorandum of transfer signed as last aforesaid shall be conclusive evidence of the registration thereof, and of the date of such registration.

Notice and registration.

65. If any policy is assigned by way of mortgage, or upon any trust, such mortgage or trust shall be effected by way of defeasance or declaration of trust by some separate instrument, and no notice of any such mortgage or trust shall be entered on the memorandum of transfer or indorsed on the policy, and the company shall not be affected either by express, implied, or constructive notice of any such mortgage or trust, nor be bound or concerned to see to the application of any moneys payable under such policy.

No notice of mortgage or trusts.

66. It shall be the duty of the Colonial Treasurer to secure the due observance by every company of the provisions of this Act; and the Governor may, by regulation to be pub-

Duties of Colonial Treasurer.

lished in the *Government Gazette* of Western Australia, declare what fees shall be payable by companies in respect of the duties to be performed hereunder by the Colonial Treasurer.

Registration in case
policy lost.

67. In case any policy or instrument required to be registered, or the production of which is in any way essential to any registration required to be made under this Act, shall be lost or destroyed, the manager upon such evidence, and subject to such conditions as he shall think fit, shall issue a certified copy of such policy, and he may, upon such conditions as he shall see fit, effect any registration notwithstanding the loss or destruction of such instrument as aforesaid.

Lost policy.
No. 12 of 1905,
Sec. 4.

67a. (1.) If a policy is lost or destroyed, the company liable upon the policy may, upon such evidence of loss or destruction as the company deem sufficient, issue to the policyholder a special policy.

(2.) Every special policy shall contain, so far as the same can be known or ascertained, the same or similar terms and conditions as were contained in the policy so lost or destroyed, and every memorandum or indorsement thereon, or the substance or the particulars thereof so far as the same may be known to the company, and shall state why such special policy is issued.

(3.) Before issuing a special policy, the company shall, if the amount assured exceeds one hundred pounds, give at least one month's notice of its intention so to do in at least one newspaper circulating in Perth, and in at least one newspaper circulating in the neighbourhood where the policyholder resides.

The expense of such advertisement, and all other costs of the issue of a special policy, shall be paid by the policyholder prior to its issue to him.

(4.) The fact of the issue of a special policy, with the reason for such issue, shall be registered in a book provided by the company for that purpose.

(5.) Every special policy shall be valid and available for all purposes for which the lost or destroyed policy would have been valid and available, and after issue thereof the lost or destroyed policy shall be absolutely null and void.

(6.) If the company fails to issue a special policy within six months after being requested, in writing, so to do by the

policy-holder, the court may, upon application by summons made after due notice to the company, and upon such evidence as to the loss or destruction of the policy as the court deems sufficient, order the company upon such terms and within such time as the court thinks fit to issue such special policy.

(7.) In the event of the loss or destruction of a special policy, the provisions of this section shall apply as if the same were an original policy issued by the company.

68. All policies for the time being on the Western Australian register shall be treated as Western Australian assets and liabilities of the company on whose register they are, and be subject in every respect to the laws of such colony.

Policies on Western Australian Register subject to laws of colony.

69. Any policy issued in Western Australia by a company, or transferred to the register of that company in Western Australia, may, at the request in writing of the policy-holder and with the consent of the company, be transferred to the register of that company in any other colony or country, and shall thereupon cease to be subject to the laws of this colony.

Transfers.

70. Any policy issued outside Western Australia by a company, or transferred from the Western Australia register of that company to its register in any other colony or country, may, at the request in writing of the policy-holder and with the consent of the company, be transferred to the register of that company in Western Australia.

Transfers.

71. The provisions of the two preceding sections shall be retrospective as well as prospective, and shall apply to transfers of policies already made as well as to those which shall be made after the passing of this Act.

Operation of two preceding sections.

SCHEDULES.

First Schedule.

Revenue Account

for the year ending

18 (Date)	£ s. d.	18 (Date)	£ s. d.
Amount of funds at beginning of the year		Claims under policies (after deduction of sums re-assured)	
Renewal premiums, after deduction of re-assurance premiums		Surrenders	
New premiums (after deduction of re-assurance premiums) on new policies, assuring £ , and yielding an annual revenue of £ , after deduction of re-assurances		Annuities	
Consideration for annuities granted		Commission on new premiums	
Interest and dividends		on renewals	
Other receipts (accounts to be specified)		Expenses of management	
		Dividends and bonuses to shareholders (if any)	
		Other payments (accounts to be specified)	
		Amount of funds at the end of the year, as per Second or Fourth Schedule	

NOTE 1.—Companies having separate accounts for annuities, to return particulars of their annuity business in a separate statement.

NOTE 2.—Items in this and in the accounts in the Third and Fifth Schedules should be the net amounts, after the deduction of the amounts paid and received in respect of re-assurances.

Second Schedule.

Balance Sheet of the

on the

18 .

LIABILITIES.				£	s.	d.	ASSETS.			
				£	s.	d.				
Shareholders' capital paid up (if any)				<i>In Western Australia—</i>			
Assurance fund				Western Australian Government securities			
Annuity fund (if any)				Other Government securities (particulars to be specified)			
Other funds (if any, to be specified)				Mortgages			
							Loans on the company's policies			
							Loans upon personal security			
							Railway and other debentures, and debenture stocks			
							Railway shares (preferential and ordinary)			
							House property			
							Other investments (to be specified)			
							Agents' balances			
							Outstanding premiums			
							Outstanding interest			
							Cash—On deposit			
							In hand and on current account			
							Other assets (to be specified)			
							Total assets in Western Australia			
							<i>Elsewhere than Western Australia—</i>			
							British Government securities			
							Indian and Colonial Government securities			
							Foreign Government securities			
							Mortgages (stating where)			
							Loans on the company's policies			
							Loans upon personal security			
							Railway and other debentures, and debenture stocks			
							Railway shares (preferential and ordinary)			
							House property (stating where)			
							Other investments (to be specified)			
							Agents' balances			
							Outstanding premiums			
							Outstanding interest			
							Cash—On deposit			
							In hand and on current account			
							Other assets (to be specified)			
							Total assets elsewhere than in Western Australia			
				£			Total assets			

* These items are included in the corresponding items in the First Schedule.

Life Assurance Companies.

Third Schedule.

Revenue Account of the

for the year ending

No. 1.—LIFE ASSURANCE ACCOUNT.

(Date.)	£	s.	d.	(Date.)	£	s.	d.
Amount of life assurance fund at the beginning of the year				Claims under life policies, after deduction of sums re-assured			
Renewal premiums, after deduction of re-assurance premiums				Surrenders			
New premiums (after deduction of re-assurance premiums) on new policies assuring £ , and yielding an annual income of £ , after deduction of re-assurances				Annuities			
Consideration for annuities granted				Commission			
Interest and dividends				Expenses of management			
Other receipts (accounts to be specified)				Other payments (accounts to be specified)			
	£			Amount of life assurance fund at the end of the year, as per Fourth Schedule	£		

NOTE.—Companies having separate accounts for annuities to return the particulars of their annuity business in a separate statement.

No. 2.—FIRE ACCOUNT.

(Date.)	£	s.	d.	(Date.)	£	s.	d.
Amount of fire insurance fund at the beginning of the year				Losses by fire, after deduction of re-assurance			
Premiums received, after deduction of re-assurances				Expenses of management			
Other receipts (to be specified)				Commission			
	£			Other payments (to be specified)			
				Amount of fire insurance fund at the end of the year, as per Fourth Schedule	£		

NOTE.—When marine or any other branch of business is carried on, the income and expenditure thereof to be in like manner stated in a separate account.

No. 3.—PROFIT AND LOSS ACCOUNT.

(Date.)	£	s.	d.	(Date.)	£	s.	d.
Balance of last year's accounts				Dividends and bonuses to shareholders			
Interest and dividends not carried to other accounts				Expenses not charged to other accounts			
Profits realised (accounts to be specified)				Loss realised (accounts to be specified)			
Other receipts				Other payments			
	£			Balance as per Fourth Schedule	£		

NOTE.—This account is not required if the items have been incorporated in the other accounts of this schedule.

Fourth Schedule.

Balance Sheet of the

on the

18 .

LIABILITIES.							£	s.	d.	ASSETS.							£	s.	d.	£	s.	d.
Shareholders' capital	<i>In Western Australia—</i>							...	...	...	...	...	...
General reserve fund (if any)	Western Australian Government securities							...	...	...	...	...	...
Life assurance fund *	Other Government securities (particulars to be specified)							...	...	...	...	...	...
Annuity fund (if any)*	Mortgages							...	...	...	...	...	...
Fire fund	Loans on the company's policies							...	...	...	...	...	...
Marine fund	Loans upon personal security							...	...	...	...	...	...
Profit and loss (if any)	Railway and other debentures and debenture stocks							...	...	...	...	...	...
Other funds (if any), to be specified	Railway shares (preferential and ordinary)							...	...	...	...	...	...
									£	House property							...	...	...	...	...	...
Claims under life policies admitted but not yet paid *	Other investments (to be specified)							...	...	...	...	...	...
Outstanding fire losses	Agents' balances							...	...	...	...	...	...
Outstanding marine losses	Outstanding premiums							...	...	...	...	...	...
Other sums owing by the company (accounts to be specified)	Outstanding interest							...	...	...	...	...	...
									£	Cash—On deposit							...	...	...	...	...	...
									£	In hand and on current account							...	...	...	...	...	...
									£	Other assets (to be specified)							...	...	...	...	...	...
									£	Total assets in Western Australia							...	...	...	...	...	...
									£	<i>Elsewhere than in Western Australia—</i>							...	...	...	...	...	...
									£	British Government securities							...	...	...	...	...	...
									£	Indian and Colonial Government securities							...	...	...	...	...	...
									£	Foreign Government securities							...	...	...	...	...	...
									£	Mortgages (stating where)							...	...	...	...	...	...
									£	Loans on the company's policies							...	...	...	...	...	...
									£	Loans upon personal security							...	...	...	...	...	...
									£	Railway and other debentures and debenture stocks							...	...	...	...	...	...
									£	Railway shares (preferential and ordinary)							...	...	...	...	...	...
									£	House property (stating where)							...	...	...	...	...	...
									£	Other investments (to be specified)							...	...	...	...	...	...
									£	Agents' balances							...	...	...	...	...	...
									£	Outstanding premiums							...	...	...	...	...	...
									£	Outstanding interest							...	...	...	...	...	...
									£	Cash—On deposit							...	...	...	...	...	...
									£	In hand and on current account							...	...	...	...	...	...
									£	Other assets (to be specified)							...	...	...	...	...	...
									£	Total assets elsewhere than in Western Australia							...	...	...	...	...	...
									£	Total assets							...	...	...	...	...	...

* If the life assurance fund is in accordance with section 20 of this Act, a separate trust fund for the sole security of the life policy-holders, or a separate balance sheet for the life branch, may be given in the form contained in the Second Schedule. In other respects the company is to observe the above form. See also note to Second Schedule.

Life Assurance Companies.

Fifth Schedule—continued.

3. Policies of the existing on the

	In New South Wales.		In Victoria.		In New Zealand.		In South Australia.		In Queens-land.		In Tasmania.		In West Australia.		Elsewhere.	
	No. of Policies.	Sums Assured.	No. of Policies.	Sums Assured.	No. of Policies.	Sums Assured.	No. of Policies.	Sums Assured.	No. of Policies.	Sums Assured.	No. of Policies.	Sums Assured.	No. of Policies.	Sums Assured.	No. of Policies.	Sums Assured.
Assurance																
Endowment																
Annuity		per ann.		per ann.		per ann.		per ann.		per ann.		per ann.		per ann.		per ann.
Total																

4. Progress of the life assurance business of the since its establishment to

	No. of Policies.	Sums Assured.	Annuitiy per annum.	Annual Premiums.
Total issued.....		£ s. d.	£ s. d.	£ s. d.
Total discontinued.....				
Existing.....				
Annual Income from interest.....				
Total Annual Income.....				

Sixth Schedule.

Statement respecting the Valuation of the Liabilities under Life Policies and Annuities of the.....to be made by the Actuary.

[The answers should be numbered to accord with the numbers of the corresponding questions.]

1. The date up to which the valuation was made?
 2. The principles upon which the valuation was made, and whether these principles were determined by the instrument constituting the company or by its regulations, or by by-laws or otherwise?
 - (a) Were the policies valued individually or in classes?
 - (b) If in classes, how was the valuation age determined?
 - (c) What portion (if any) of a year's premium was assumed to be due?
 - (d) Were lives assured at increased rates assumed to be of the age at entry corresponding to the premium charged? If not, how were they dealt with?
 3. The table or tables of mortality used in the valuation?
 4. The rate or rates of interest assumed in the calculations?
 5. By what table of mortality, and according to what rate of interest, have the net premiums valued been computed? Give specimens of such premiums for a whole life and an endowment assurance policy of £100, for ages at entry, 20, 25, 30, 35, 40, 45, 50, 55, 60.
 6. The proportion of the annual premium income (if any) reserved as a provision for future expenses and profits? [*If none, state how this provision is made.*] In cases where assurances have been effected by single or limited premiums, state what provision has been made for expenses when the premiums cease to be payable.
 7. The consolidated revenue account since the last valuation, or, in case of a company which has made no valuation, since the commencement of the business? [*This return must be made in the form annexed.*]
 8. The liabilities of the company under life policies and annuities at the date of the valuation, showing the number of policies, the amount assured, and the amount of premiums payable annually under each class of policies, both with and without participation in profits, and also the net liabilities and assets of the company, with the amount of surplus or deficiency? [*These returns must be made in the forms annexed.*]
 9. The principles upon which the distributions of profit are made?
 10. The time during which a policy must be in force to entitle it to share in the profits?
 11. The results of the valuation, showing—
 - (a) The total amount of profit made by the company.
 - (b) The amount of profit divided among the policy-holders, and the number and amount of policies which participated.
 - (c) Specimens of bonuses allotted to policies for £100, effected at the respective ages of 20, 30, 40, 50, and having been respectively in force for five years, ten years, and upwards, at intervals of five years, together with the amount appropriated under the various modes in which the bonus might be received.
-

[Form referred to under heading No. 7 in Sixth Schedule.]

Consolidated Revenue Account of the _____ for _____ years,
commencing _____ and ending _____

	£	s.	d.		£	s.	d.
Amount of funds on 18, the beginning of				Claims under policies, after deduction of sums re-assured ...			
Premiums, after deduction of re-assurance premiums.....				Surrenders			
Consideration for annuities granted				Annuities			
Interest and dividends.....				Commission			
Other receipts (accounts to be specified)				Expenses of management.....			
				Dividends and bonuses to shareholders (if any).....			
				Other payments (accounts to be specified).....			
				Amount of funds on 18, the end of the period, as per First (or Third) Schedule			
£					£		

[Form referred to under heading No. 8 in Sixth Schedule.]

Summary and Valuation of the Policies of the _____ as at _____

Description of Transactions.	Particulars of the Policies for Valuation.						Valuation.					
	No. of Policies.	Sum Assured.	Bonus Addition.	Office yearly Premiums.	Net Yearly Premiums.	Loading.	Value by the Interest			table per cent.		
							Sum Assured.	Bonus Addition.	Office Yearly Premium.	Net Yearly Premium.	Loading.	Net Liability.
<i>Assurances—</i>												
1. With participation in profits—												
For whole term of life ...												
Other classes (to be specified) ...												
Extra premiums payable ...												
Total assurances with profits ...												
2. Without participation in profits—												
For the whole term of life ...												
Other classes (to be specified) ...												
Extra premiums payable ...												
Total assurances without profits												
Total assurances ...												
Deduct re-assurances ...												
Net amount of assurances ...												
Adjustments (if any) ...												
<i>Annuities—</i>												
Immediate ...												
Other classes (to be specified) ...												
Total of the results ...												

The item "extra premium," in this Act shall be taken to mean the charge for any risk not provided for in the minimum contract premium. If policies are issued in or for any country, at rates of premium deducted from tables other than the European mortality tables adopted by the company, separate schedules, similar in form to the above, must be furnished.

[Form referred to under heading No. 8 in Sixth Schedule.]

Valuation Balance-sheet of		as at	18
Dr.	£ s. d.	Cr.	£ s. d.
To net liability under assurance and annuity transactions (as per summary statement provided in Seventh Schedule) ...		By life assurance and annuity funds (as per balance-sheet under Third or Fifth Schedule)	
To surplus (if any) ...		By deficiency (if any) ...	
	£		£

Seventh Schedule.

Statement of the Life Assurance and Annuity business of the on the

[The answers should be numbered to accord with the numbers of the corresponding questions. Statements of re-assurances, corresponding to the statements in respect of assurances under headings 2, 3, 4, 5, 6, and 7, are to be given.]

1. The published table or tables of premiums for assurances for the whole term of life which were in use at the date above mentioned?

2. The total number of policies and amounts assured on lives for the whole term of life which were in existence at the date above mentioned, distinguishing the portions assured with and without profits, stating separately the total reversionary bonuses, and specifying the sums assured for each year of life, from the youngest to the oldest ages?

3. The amount of premiums receivable annually for each year of life after deducting the abatements made by the application of bonuses in respect of the respective assurances mentioned under heading No. 2, distinguishing ordinary from extra premiums?

4. The total amount of premiums which have been received from the commencement upon all policies mentioned under heading No. 2, which were in force at the above-mentioned date?

5. The total number of policies and amounts assured under classes of assurance business other than for the whole term of life, distinguishing the number of policies and the sums assured under each class, and stating separately the amount assured, with and without profits, and the total amount of reversionary bonuses?

6. The amount of premiums receivable annually in respect of each such special class of assurances mentioned under heading No. 5, distinguishing ordinary from extra premiums?

7. The total amount of premiums which have been received from the commencement upon all policies under each special class mentioned under heading No. 5, which were in force at the date above-mentioned?

8. The total amount of immediate annuities on lives, distinguishing the amount for each year of life?

9. The amount of all annuities other than those specified under heading No. 8, distinguishing the amount payable under each class, the amount of premiums annually receivable, and the amount of consideration money received in respect of each such class, and the total amount of premiums received from the commencement upon all deferred annuities?

10. The average rate of interest at which the life assurance fund of the company was invested at the close of each year during the period since the last investigation, together with a statement of the manner in which such average has been computed?

11. A table of minimum value (if any) allowed for the surrender of policies for the whole term of life, and for endowments, and endowment assurances, or a statement of the method pursued in calculating such surrender values, with instances of its application to policies of different standing, and taken out at various interval ages, from the youngest to the oldest?

12. Separate statements to be furnished for business at other than European rates, together with a statement of the manner in which policies on unhealthy lives are dealt with?

Eighth Schedule.

Rule for Valuing an Annuity.

An annuity shall be valued according to the tables used by the company which granted such annuity at the time of granting the same; and where such tables cannot be ascertained or adopted to the satisfaction of the court, then according to the table known in England as the Government Annuities Experience Table, interest being reckoned at the rate of Four Pounds per centum per annum.

Rule for Valuing a Policy.

The value of the policy is to be the difference between the present value of the reversion in the sum assured on the decease of the life, including any bonus or addition thereto made before the commencement of the winding up, and the present value of the future annual premiums.

In calculating such present values the rate of interest is to be assumed as being Four pounds per centum per annum, and the rate of mortality as that of the tables known in England as the Institute of Actuaries H.M. Life Tables.

The premium to be calculated is to be such a premium as, according to the said rate of interest and rate of mortality, is sufficient to provide for the risk incurred by the office in issuing the policy, exclusive of any addition thereto for office expenses and other charges.

Ninth Schedule.

Memorandum of Transfer.

Date of transfer, and state whether transfer absolute or partial, and if partial to what amount transferred.	Signature of Transferor.	Witness.	Transferee.			Signature of Transferee.	Witness.	Date of Registration of Transfer.	Signature of principal Officer of Company.
			Name in full.	Address.	Occupation.				