

New Zealand.FOREIGN INSURANCE COMPANIES'
DEPOSITS.

1908, No. 66.

AN ACT to consolidate certain Enactments of the General Assembly relating to Foreign Insurance Companies.

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

1. (1.) The Short Title of this Act is "The Foreign Insurance Companies' Deposits Act, 1908." Short Title.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply:— Enactments consolidated.

(a.) All deposits, returns, notices, certificates, registers, registrations, records, instruments, and generally all acts of authority which originated under any of the said enactments, and are subsisting or in force on the coming into operation of this Act, shall enure for the purposes of this Act as fully and effectually as if they had originated under the corresponding provisions of this Act, and accordingly shall, where necessary, be deemed to have so originated. Savings

(b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

(3.) This Act is divided into Parts, as follows:—

PART I.—Life Insurance Companies. (Sections 3 and 4.)

PART II.—Fire and Marine Insurance Companies. (Sections 5 to 7.)

PART III.—Accident and Miscellaneous Insurance Companies.
(Section 8.)

PART IV.—General. (Sections 9 to 26.)

Interpretation.

1894, No. 29, sec. 2

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” means any of the following securities :—

(a.) Government securities of New Zealand or of the Commonwealth of Australia or any State thereof :

(b.) Debentures issued or mortgages executed by any local authority in New Zealand under any law for the time being in force, secured upon general or special rates, or upon real estate in New Zealand held in fee-simple :

(c.) Mortgages on the security of any real estate held in fee-simple in New Zealand and free from all incumbrances :

Provided that no mortgage shall 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 in New Zealand and free from all incumbrances :

(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 New Zealand :

Provided that such deposits shall be made in and be payable in New Zealand :

“Company” means any person or association, corporate or unincorporate, established or registered 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—

(a.) Life insurance ; or

(b.) Fire and marine insurance concurrently : or

(c.) Fire insurance only ; or

(d.) Marine insurance only ; or

(e.) Accident insurance ; or

(f.) Insurance of any class not hereinbefore mentioned :

and includes mutual associations as well as proprietary, but does not include the Government Insurance Department under “The Government Life Insurance Act, 1908” :

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

“Life insurance” 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 in New Zealand.

PART I.

LIFE INSURANCE COMPANIES.

3. (1.) Every foreign company which proposes to commence in New Zealand the business of life insurance, whether conjointly or not with any other class of business, shall, before commencing such life insurance business, deposit with the Public Trustee a sum of not less than five thousand pounds nor more than fifty thousand pounds in cash or approved securities.

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

1894, No. 29, sec. 3

(2.) Such deposits shall be calculated according to the scale in the Second Schedule hereto.

4. (1.) Every deposit of approved securities made by a foreign life insurance company with the Public Trustee, whether under this section or under any enactment mentioned in the First Schedule hereto, shall be deemed to be a compulsory deposit of securities within the meaning and for the purposes of "The Life Insurance Act, 1908."

Deposit to be for purposes of Life Insurance Act.

Ibid, sec. 3

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

PART II.

FIRE AND MARINE INSURANCE COMPANIES.

5. (1.) Every foreign company which proposes to commence in New Zealand the business of—

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

Ibid, sec. 4

(a.) Fire insurance; or

(b.) Marine insurance; or

(c.) Fire and marine insurance—

shall, before commencing any such business: and

Every foreign company which on the coming into operation of this Act is carrying on any such business as aforesaid in New Zealand shall, before the expiry of the term of its existing certificate—

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 in New Zealand for the period of twelve months from the date named in such certificate.

(2.) If the Public Trustee refuses 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 deems just.

(3.) For the purposes of such certificate every such company shall from time to time furnish to the Public Trustee a statement of its affairs for the period and in the form prescribed, and the Public Trustee shall grant such certificate unless he is of opinion that the company is not financially sound.

Statement of affairs to be furnished to Public Trustee.

1895, No. 37, sec. 2

(4.) For every such certificate there shall be paid to the Public Trustee by the foreign company receiving the certificate such fee, not exceeding three guineas, as the Governor from time to time prescribes.

Fee for certificate.

1900, No. 42, sec. 2

Certificate remains in force for twelve months.
1894, No. 29, sec. 6
Unlawful to carry on business without certificate.
Ibid, sec. 7

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.

7. Save as aforesaid, it shall not be lawful for any such company to carry on any such business in New Zealand without such certificate.

PART III.

ACCIDENT AND MISCELLANEOUS INSURANCE COMPANIES.

Foreign accident and miscellaneous companies to deposit with Public Trustee £10,000.
Ibid, sec. 8

8. (1.) Every foreign company which proposes to commence in New Zealand 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.

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

Statement of nature and value of securities to be laid before Parliament.
Ibid, sec. 23

(3.) 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 this Part of this Act the nature and value of the securities so deposited.

PART IV.

GENERAL.

Foreign company not required to make more than one deposit.
Ibid, sec. 9

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.

Deposit of instruments of title to approved securities may be accepted.
1904, No. 50, sec. 2

10. (1.) In lieu of any instrument transferring or assigning to him any approved securities the Public Trustee may accept the deposit of the instruments of title to such securities, and in that case a certificate under his hand and seal that the securities specified therein have been deposited with him in trust for the purposes of this Act shall be registered in the manner and with the consequences hereafter provided.

Mode of registration of certificate of deposit.
Ibid, sec. 3

(2.) The registration shall be effected,—

(a.) In the case of Government securities under paragraph (a) of the definition of “approved securities” in section two hereof, by posting the certificate in a registered letter addressed to the Minister or the Treasurer at the Treasury of the Government concerned :

(b.) In the case of debentures or mortgages of a local authority under paragraph (b) of the definition aforesaid, by posting the certificate in a registered letter addressed to the Clerk of the local authority at its principal office :

(c.) In the case of mortgages on the security of real estate under paragraph (c) or of real estate or leasehold mortgages under paragraph (d) of the definition aforesaid, by registering the certificate in the Land Registry Office or Deeds Register Office, as the case may require ; and for the purposes of such registration the certificate shall be deemed to be an instru-

ment affecting land within the meaning of "The Land Transfer Act, 1908," and a deed affecting land within the meaning of "The Deeds Registration Act, 1908," and shall be registrable accordingly :

(d.) In the case of fixed deposits in a bank, by posting the certificate in a registered letter addressed to the manager of the bank at the bank's office from which the receipt for the fixed deposit was issued.

(3.) The consequences of the registration of the certificate shall be to render void any dealing by the company or its creditors with the security specified therein until the certificate is revoked by memorandum under the hand and seal of the Public Trustee :

Consequences of registration.
1904, No. 50, sec. 4

Provided that nothing in this Act shall affect the right of the company to receive and give valid receipts for the income from time to time arising from any approved security.

(4.) The memorandum of revocation may be registered in the same manner as the certificate.

Revocation may be registered.
Ibid, sec. 5
No fees payable.
Ibid, sec. 6

(5.) No fees under "The Land Transfer Act, 1908," or "The Deeds Registration Act, 1908," shall be payable in respect of any registration of a certificate of deposit or memorandum of revocation.

11. A foreign company may, with the consent in writing of the Public Trustee, deposit with the Custodians of Public Securities in London (as appointed under "The Public Revenues Act, 1908"), in lieu of the Public Trustee, the cash or approved securities required by this Act to be deposited with the Public Trustee, and the deposit so made shall be deemed a sufficient compliance with this Act.

Deposit may be made in London.
Ibid, sec. 7

12. No foreign company shall be deemed to continue to carry on business in New Zealand 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.
1894, No. 29, sec. 10

13. If in any case the total deposits made on the coming into operation of this Act by any foreign company pursuant to subsection two of sections three or eight of "The Foreign Insurance Companies' Deposits Act, 1894," do not amount to the maximum thereby prescribed, then further deposits shall be made half-yearly thereafter, according to the scale in the Second Schedule hereto until the maximum is reached.

Where deposits under maximum, further deposits to be made as business increases.
Ibid, sec. 11 (1)

14. (1.) For the purpose of ascertaining the amounts of the deposits to be made under this Act by a foreign company liable to pay the same according to the aforesaid scale, the company shall, until it has deposited the prescribed maximum, send in to the Minister of Finance half-yearly a return, verified by the statutory declaration of the attorney or agent of the company in New Zealand, 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 Second Schedule hereto.

Returns to be made half-yearly.
Ibid, sec. 11 (2)

(2.) The first half-yearly return under this Act shall be made six months after the date of the last half-yearly return in the case of a company carrying on business on the coming into operation of this Act, and six months after it commences business in the case of a company which hereafter commences business.

Interest payable
on deposits.
1895, No. 37, sec. 3

Foreign company
to receive income
from deposits.
1894, No. 29, sec. 13

Deposits may be
changed for others
of equal value.
Ibid, sec. 14

Loss, &c., of
securities to be
made good out
of moneys
appropriated.
Ibid, sec. 15

Deposits to be
held in trust for
policyholders.
Ibid, sec. 16

Not to be liable for
debts of company
without consent.

15. All cash deposited with the Public Trustee under this Act shall bear interest at such rate as the Governor in Council from time to time determines, and the Public Trustee shall pay the same accordingly.

16. 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.

17. (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, 1908," 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 under or for the purposes of "The Land and Income Assessment Act, 1908," shall be deemed to be the value of such real estate and leasehold interests for the purposes of such deposit.

18. If whilst any securities are deposited under this Act with the Public Trustee they are 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 Parliament.

19. (1.) Subject to the provisions of this Act, but without prejudice to the special trust in favour of life assurance policies 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 New Zealand by the foreign company making such deposit, whether such policies or contracts have been granted or entered into before or after the coming into operation of this Act :

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.

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

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

Conditions under which deposits may be withdrawn.

1894, No. 29, sec. 17

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

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

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

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

21. 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 fine not exceeding fifty pounds for every day during which such default continues.

Penalty on default in complying with terms of Act.

Ibid, sec. 18

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

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

Ibid, sec. 19

23. 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 in New Zealand, then, in addition to and irrespective of the fine specified in section twenty-one hereof, such company and person are respectively and severally liable to a fine of one hundred pounds for each and every act done in breach of this provision.

Further penalty for carrying on business after notice prohibiting.

Ibid, sec. 20

24. 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.

Ibid, sec. 21

25. All fines imposed by this Act are recoverable in a summary way.

Fines recoverable in summary way.

Ibid, sec. 22

26. Part I of this Act and all provisions of this Act affecting companies subject to Part I hereof shall be read with "The Life Insurance Act, 1908."

Provisions to be read with Life Insurance Act.

Ibid, sec. 24

SCHEDULES.

FIRST SCHEDULE.

ENACTMENTS CONSOLIDATED.

1894, No. 29.—“The Foreign Insurance Companies’ Deposits Act, 1894.”

1895, No. 37.—“The Foreign Insurance Companies’ Deposits Amendment Act, 1895.”

1900, No. 42.—“The Foreign Insurance Companies’ Deposits Act Amendment Act, 1900.”

1904, No. 50.—“The Foreign Insurance Companies’ Deposits Act Amendment Act, 1904.”

SECOND SCHEDULE.

Sections 3 (2), 13.

1894, No. 29,
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 the prescribed maximum, being £50,000 in the case of a company under Part I and £10,000 in the case of a company under Part III of this Act.