

WESTERN AUSTRALIA.



ANNO QUINTO

EDWARDI SEPTIMI REGIS,

XII.

No. 12 of 1905.

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

[Assented to 23rd December, 1905.]

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:—

1. This Act may be cited as the *Life Assurance Companies Amendment Act, 1905*, and shall be read as one with the Life Assurance Companies Act, 1889, hereinafter referred to as the principal Act. Short title.

2. 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. See Q. 1 Edw. VII., No. 20, s. 18.

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.
S.A. 50 & 51 Vict.,
No. 417.

3. 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.

Lost policy.
See Q. 1 Edw. VII.,
No. 20, s. 44.

4. (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 deems sufficient, issue to the policy-holder 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 policy-holder resides.

The expense of such advertisement, and all other costs of the issue of a special policy, shall be paid by the policy-holder 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 the 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.

5. In the construction of the principal Act and of this Act the word "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, and the word "will" includes codicil, and the word "bankruptcy" includes any proceeding under the Bankruptcy Act, 1892, or any Act amending the same whereby the property of a debtor becomes vested in any other person for division among creditors.

Interpretation.
S.A., No. 417 of
1887, s. 5.

6. Section thirty-three of the principal Act is hereby repealed.

Repeal of 53 Vict.,
No. 12, s. 33.