

Act No. 49, 1902.

An Act to consolidate the enactments relating LIFE, FIRE, AND
MARINE INSURANCE.
to Life, Fire, and Marine Insurance. [25th
August, 1902.]

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 New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

Preliminary.

1. This Act may be cited as the "Life, Fire, and Marine Short title and
division of Act.
Insurance Act, 1902," and is divided into Parts, as follows:—

PART I.—*Preliminary*—ss. 1, 2.

PART

*Life, Fire, and Marine Insurance.*PART II.—*Life insurance encouragement—ss. 3–10.*PART III.—*Lost life insurance policies—ss. 11–13.*PART IV.—*Fire insurance policies assignment—ss. 14–16.*PART V.—*Re-insurance—marine risks—s. 17.*

Repeal.

2. The Acts mentioned in the Schedule hereto are, to the extent therein expressed, hereby repealed.

PART II.

Life insurance encouragement.

For the encouragement and protection of life insurances and other like provident arrangements for the benefit of insurers, their wives, and families, be it enacted as follows:—

Interpretation.

26 Vic. No. 13, ss. 1, 2.

3. In this Part, unless the context or subject-matter otherwise indicates,—

“Insurance company” extends and applies to any company, society, or body of persons incorporated or regulated, or enabled to sue and be sued, by any Charter or Act and associated together with the object solely, or amongst others, of granting policies upon lives or entering into contracts for future endowments by way of annuity or otherwise.

“Policy” means a policy or contract effected with any insurance company.

Policy and premiums protected on bankruptcy and against Court process.

Ibid. s. 2.

4. The property and interest of every person who has effected, or shall hereafter effect, any policy for an insurance bona fide upon the life of himself or any other person in whose life he is interested, or for any future endowment for himself or any other such person, and the property and interest of the personal representatives of himself or such other person in such policy, or in the moneys payable thereunder or in respect thereof, and in the contributions made towards the same, shall be exempt from any law now or hereafter in force relating to insolvency or bankruptcy, or from being seized or levied upon by or under the process of any Court whatever.

Conditions of protection for life insurance and endowment.

Ibid.

5. A policy for life insurance or endowment or the contributions made towards the same shall not be protected under the last preceding section until such policy has endured for at least two years, after which period such protection shall be afforded to the extent of two hundred pounds of insurance or endowment, and after an endurance of five years to the extent of five hundred pounds, and after an endurance of seven years to the extent of one thousand pounds, and after an endurance of ten years to the extent of two thousand pounds.

Conditions of protection for annuities.

Ibid.

6. A policy for an annuity, or contributions made towards the same, shall not be protected under section four of this Act until the payments

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payments made on behalf of such annuity have extended over a period of at least six years, or unless such policy has been purchased at a date at least six years prior to the commencement of the annuity, and such annuity does not exceed one hundred and four pounds per annum.

7. The protection afforded under section four of this Act shall, in the case of an annuity, accrue only to the benefit of the actual annuitant, and only to such part thereof as is payable after such annuitant has attained the age of fifty years, and in the case of an endowment for the benefit only of the nominee, and in the case of a life insurance for the benefit only of the personal representatives of the insured, and in no case for any assignee of the insured.

Protection under s. 4 restricted to certain persons.
26 Vic. No. 13, s. 2.

8. A policy of insurance by any man on his own life, effected before or after the passing of this Act, and expressed to be for the benefit of his wife or of his children, or of his wife and children, or any of them, and a policy of insurance effected by any woman on her own life, and expressed to be for the benefit of her husband or of her children, or of her husband and children, or any of them, shall create a trust in favour of the objects named therein, and the moneys payable under any such policy shall not, as long as any object of the trust remains unperformed, form part of the estate of the insured, or be subject to his or her debts :

In insurances for benefit of family, moneys payable not to form part of estate of insured.
56 Vic. No. 11, s. 13.

Provided that if it is proved that the policy was effected and the premiums paid, with intent to defraud the creditors of the insured, they shall be entitled to receive, out of the moneys payable under the policy, a sum equal to the premiums so paid.

9. A person insured under any policy referred to in the last preceding section may, by the policy or by any memorandum under his or her hand, or by will, appoint a trustee or trustees of the moneys payable under the policy, and from time to time appoint a new trustee or new trustees thereof, and may make provision for the appointment of a new trustee or new trustees thereof, and for the investment of the moneys payable under any such policy. In default of any such appointment of a trustee, such policy, immediately on its being effected, shall vest in the insured and his or her legal personal representatives in trust for the purposes aforesaid. If, at the time of the death of the insured, or at any time afterwards, there is no trustee, or if it is expedient to appoint a new trustee or new trustees, a trustee or a new trustee, or trustees, may be appointed by any Court having jurisdiction under the provisions of the Trustee Act, 1898, or any Act amending the same. The receipt of a trustee or trustees duly appointed, or in default of any such appointment, or in default of notice to the insurance office, the receipt of the legal personal representative of the insured shall be a discharge to the office for the sum secured by the policy, or for the value thereof, in whole or in part.

Insured may appoint trustees.
Ibid. s. 13.

Failing appointment, insured a constructive trustee.

Court may appoint.

Trustee's receipts a valid discharge.

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Shares in insurance
money, how settled.
56 Vic. No. 11, s. 14.

10. Subject to any provisions expressed in any policy referred to in section eight of this Act, the person effecting such insurance shall have power to appoint by deed or will what shares or interests in the moneys secured thereby shall accrue to each of the persons for whose benefit the insurance was expressed to be made. In default of such appointment, or so far as the same does not extend, then, subject as aforesaid, children expressed in any such policy shall be entitled in equal shares; and when a wife or husband is expressed to be benefited together with a child or children, such wife or husband shall be entitled to the whole for life, and such child or children in equal shares shall be entitled to the remainder.

PART III.

Lost life insurance policies.

Issue of special
policy in substitution
of lost or destroyed
policies.
59 Vic. No. 13, s. 1.

11. (1) In the event of a life insurance policy issued in New South Wales or recorded in the books of any life insurance office in New South Wales being lost or destroyed, the company which is liable upon such policy may, upon such evidence as to its loss or destruction as the company deems sufficient, issue to the person entitled thereto a special policy.

(2) If the company fails to issue such a special policy within two months after being requested in writing so to do by such person, hereinafter called the applicant, a Judge of the Supreme Court or of the Metropolitan District Court may, after due notice to the company, and upon such evidence as to the loss or destruction of the policy as he deems sufficient, direct the company upon such terms and within such time as he may determine to issue to the applicant a special policy.

Intended issue of
special policy to be
advertised.
Ibid.

12. Before issuing such special policy the company shall give at least one month's notice of its intention so to do in at least one newspaper circulating in the city of Sydney, and in one newspaper circulating in the neighbourhood in which the applicant resides, or in one newspaper circulating in the district in which the policy is considered by the company to have been lost. The expenses of such advertisement and all other costs connected with the issue of such special policy shall be paid by the applicant, who shall not be entitled to such special policy until the said expenses and costs have been paid.

Contents and effect
of special policy.
Ibid.

13. (1) Every such special policy shall be available for all purposes and uses for which the policy so lost or destroyed would have been available, and shall be equally valid therewith to all intents.

(2) Every such special policy shall contain, so far as the same can be known or ascertained, the same or similar terms and conditions

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conditions as were contained in the policy so lost or destroyed, and every memorandum or endorsement thereon so far as the same may be known to the company, and shall state why such special policy is issued.

(3) The issue of such special policy with the reasons for such issue shall be entered in the books of the company, and after the issue of such special policy the company shall not be liable under the original policy if no notice of any assignment thereof has been received prior to such issue.

PART IV.

Fire insurance policies assignment.

14. (1) It shall be lawful to make an assignment of a fire policy by endorsement on such policy with the consent in writing of the company or person issuing the same endorsed on such policy.

Assignment of fire policy.
51 Vic. No. 13, s. 2,
and Schedule.

(2) Such assignment shall be in the words or to the effect following, namely, "I, A.B., of, &c., do hereby assign unto C.D. the within policy of insurance on [*here describe property insured, &c.*] In witness whereof, &c."

15. Whenever a fire policy has been assigned in such manner and with such consent as aforesaid so as to pass the beneficial interest in such policy to any person entitled to the property thereby insured the assignee of such policy shall be entitled to sue thereon in his own name. The defendant in any action shall be entitled to make any defence which he would have been entitled to make if the said action had been brought before such assignment in the name of the person by whom or on whose account the policy sued upon was effected.

Assignee may sue in his own name.
Ibid. s. 3,
and Schedule.

16. For the purposes and in the construction of sections fourteen and fifteen, the expression "fire policy" means any instrument by which the payment of money is assured or secured on the happening of any of the contingencies in the nature of loss or damage to property by fire named in such instrument.

Interpretation.
Ibid. s. 1.

PART V.

Re-insurance—marine risks.

17. Notwithstanding anything contained in the Imperial Act passed in the nineteenth year of the reign of King George the Second, chapter thirty-seven, it shall be lawful to make re-insurance upon any ship or vessel, or upon any goods, merchandise, or other property on board any ship or vessel, or upon the freight of any ship or vessel, or upon any other interest in or relating to any ship or vessel which may lawfully be insured.

Re-insurance of marine risks may be made.
23 Vic. No. 19, s. 1.

SCHEDULE.

Act No. 50, 1902.

Butchers' Shops Sunday Closing.

SCHEDULE.

Reference to Act.	Title or short title.	Extent of repeal.
26 Vic. No. 13	Life Assurance Encouragement Act of 1862	The whole Act.
29 Vic. No. 19	An Act to repeal the prohibition on re-insurance of Marine Risks.	The whole Act.
51 Vic. No. 13	Assignees of Fire Insurance Policies Enabling Act, 1887.	The whole Act.
56 Vic. No. 11	Married Women's Property Act, 1893 ...	The unpealed portion of s. 13, and s. 14.
59 Vic. No. 13	Lost Policies Act of 1895	The whole Act.