

## LIFE ASSURANCE COMPANIES ACT, 1936.

### No. 2283 of 1936.

An Act to consolidate certain Acts relating to life assurance companies.

*[Assented to 3rd September, 1936.]*

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

Short title.  
Cf. U.K.  
9 Edw. 7  
c. 49.

**1.** This Act may be cited as the “ Life Assurance Companies Act, 1936 ”.

Repeal.

**2.** The following Acts are repealed, namely :—

Life Assurance Companies Act, 1882 (No. 277 of 1882).

The Policies Protection Act, 1887 (No. 417 of 1887).

An Act to authorise the Issue of Special Policies in lieu of Lost Life Assurance Policies, and for other purposes (No. 725 of 1899).

Life Assurance Companies Act Amendment Act, 1931 (No. 2054 of 1931).

Interpretation.  
277, 1882, s. 3.  
Cf. U.K.  
9 Edw. 7  
c. 49, ss. 1,  
29.

**3.** In this Act, unless the context requires a different construction—

“ company ” means any persons, corporate or unincorporate, who grant assurances, endowments, or annuities upon human life within the State :

“ chairman ” means the person for the time being presiding over the board of directors, committee of management, or other managing body in the State of the company :

“ policy ” means any contract for assurance, endowment, or annuity on human life :

“ 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 South Australia :

“Registrar” means the registrar of Companies under the Companies Act, 1934 :

“local company” means a company having its head office in the State :

“foreign company” means a company not having its head office in the State.

*Application of Companies Act, 1934, to Life Assurance Companies.*

4. The Companies Act, 1934, except as expressly modified by this Act, shall apply to life assurance companies, but no life assurance company shall be required to hold more than one general meeting during the year, or to make or file any statement in accordance with section 152 of the Companies Act, 1934.

Application of Companies Act, 1934.  
277, 1882,  
s. 34.  
Cf. U.K.  
9 Edw. 7  
c. 49, s. 19.

*Deposits by Companies.*

5. (1) No company is obliged to deposit any securities with the Public Trustee or any other authority of the State.

(2) Any securities which have been deposited with the Public Trustee pursuant to the obligation imposed by the Life Assurance Companies Act, 1882, and which the Treasurer of the Commonwealth has not, pursuant to section 7 of the Commonwealth Insurance Act, 1932, required the Public Trustee to return to the company which deposited them, shall until such a requirement is made, remain subject to, and be dealt with as prescribed by sections 7, 9, 10, 10A, 10B, and 10C, and any other relevant sections of the Life Assurance Companies Act, 1882.

Abolition of compulsory deposits.  
Com. 4, 1932,  
ss. 7, 8.  
Cf. U.K.  
9 Edw. 7  
c. 49, s. 2.

(3) To the extent and for the period necessary to give effect to subsection (2) of this section, the sections of the Life Assurance Companies Act, 1882, mentioned in subsection (2) of this section shall remain in force.

6. (1) Any company may from time to time deposit with the Public Trustee any securities of any kind and to any amount.

Voluntary deposits.  
277, 1882,  
ss. 7, 8, and 9.

(2) A company depositing any securities under this section shall be entitled to receive the income therefrom, but the securities deposited may be withdrawn upon reasonable notice.

(3) If any securities deposited under this section 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 Parliament.

*Protection of Policies.*

Protection of  
policies,  
417, 1887,  
ss. 3, 4, and 5.

7. (1) Subject to the limitations provided in this section, and to the Bankruptcy Act, 1924-1933, of the Commonwealth, a policy made *bona fide* by any person on his own life—

- (a) shall not be subject to be seized or taken in execution under the process of any court;
- (b) on the death of that person, unless expressly mentioned and specially directed by will, shall not be assets for the payment of debts;
- (c) shall be the absolute property of such person; and
- (d) shall on his death, subject to any disposition made during his life, be held by his legal personal representatives in trust for the person or persons entitled thereto under his will or codicil or in case of intestacy in trust for the person or persons entitled thereto under the statutes for the distribution of the effects of intestates.

(2) No policy shall be protected under this section except to the extent of the property and interest of the assured, nor unless that policy has endured for two years; and not more than two thousand pounds in the aggregate of all moneys assured under one or more policies on the life of one person shall be protected under this section; and if there are two or more policies on the life of one person the protection afforded under this section shall extend to such policies, one after the other, in order of age, commencing with the oldest, until the limit of protection is reached.

(3) In this section the word “policy” includes all moneys howsoever payable, assured by a policy, 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.

s. 7. In the matter of JOSEPH McAFEE DONALDSON, an insolvent (1888) 23 S.A.L.R. 141; 2 Austn. Digest 511. Held that a policy of insurance providing for payment of a sum of money on a fixed date or at death before that time was protected by s. 7.

THE BANK OF SOUTH AUSTRALIA LTD. v. KINGDON (1889) 23 S.A.L.R. 53; 11 Austn. Digest 892. A person holding a policy as equitable mortgagee is not deprived of his security by s. 7.

In re LAWRENCE (1900) S.A.L.R. 25; 11 Austn. Digest 916. A policy passing under a residuary bequest and not specially referred to in the will is protected under s. 7.

In re FLOOD (1933) S.A.S.R. 203; 11 Austn. Digest 903, 906. “Disposition” in s. 7 (1) (d) includes an equitable charge. S. 7 is not limited to policies effected in the State, nor to policy money collected in the State.

*Special Policies in lieu of Policies Lost or Destroyed.*

8. If a life assurance policy on the South Australian register of any company is lost or destroyed, and a statutory declaration is made by any person or persons having a knowledge of the circumstances stating the facts relating to that loss or destruction, and the particulars of all assignments, mortgages, or other transactions affecting the policy and the title thereto, to the best of the declarant's belief, the company, if satisfied as to the truth of that declaration, and the *bona fides* of the transaction, may issue to the person entitled thereto a special policy.

Special policy  
in place of lost  
or destroyed  
policy.  
725, 1899, s. 2.

9. If the company fails to issue a special policy within one month after being requested in writing so to do by the person entitled thereto, a judge of the Supreme Court, after due notice to the company, upon such evidence of the loss or destruction of the policy as he deems sufficient, may direct the company, upon such terms and within such time as the judge determines, to issue to the person entitled thereto a special policy.

Order for issue  
of special  
policy.  
725, 1899 s. 3.

10. Every special policy shall contain—

Contents of  
special policy.  
725, 1899, s. 4.

(a) terms and conditions, the same as or similar to those which were contained in the policy so lost or destroyed, so far as they can be known or ascertained; and

(b) every memorandum or indorsement on the policy lost or destroyed, or the substance or the particulars thereof so far as they are known to the company,

and shall state why the special policy is issued.

11. The issue of a special policy, with the reasons for its issue, shall be entered in the books of the company.

Entry in books  
of company.  
725, 1899, s. 5.

12. (1) A 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 for all purposes.

Special policy  
available as  
lost or  
destroyed  
policy.  
725, 1899, s. 6.

(2) All dealings and transactions with respect to a lost or destroyed policy, of which the company has had notice prior to the issue of a special policy, shall operate and enure for the benefit of the person entitled to the lost or destroyed policy, and be read and construed in the same manner as if the special policy was specifically mentioned and referred to in those dealings and transactions instead of the lost or destroyed policy.

Notice of intention to issue special policy.  
725, 1899, s. 7.

**13.** The company, before issuing a special policy, shall give at least one month's notice of its intention so to do in at least one newspaper circulating in the city of Adelaide, and one newspaper (if any) published in the neighbourhood in which the applicant resides, or in one newspaper (if any) published in the district in which the policy is considered by the company to have been lost or destroyed.

Expenses of advertisement.  
725, 1899, ss. 8 and 9.

**14.** (1) The expenses of the advertisement, and all other costs connected with the issue of the special policy, unless otherwise directed pursuant to section 9, shall be paid by the applicant therefor, and those costs shall in no case exceed the sum of two pounds.

(2) The applicant shall not be entitled to a special policy until the said expenses and costs have been paid.

Original policy if found, to be cancelled.  
725, 1899, s. 10.

**15.** If the original policy is found and produced after the issue of the special policy, but before payment of any moneys thereunder, the original policy shall belong and be given up to the company issuing the special policy, for the purpose of being cancelled, and the company shall not be liable upon the original policy, unless it appears that notice was received by the company prior to the issue of the special policy of any assignment, or other dealing with the original policy, affecting the right or title of the person claiming the special policy, or the right of the company to issue the special policy.

Substituted special policies.  
725, 1899, s. 11.

**16.** If a special policy is lost or destroyed, a substituted special policy may, from time to time as occasion requires, be issued instead thereof, and all the provisions of this Act with regard to the issue of a special policy shall apply to the issue of each substituted special policy.

*Transfer of Policies from one Register to another.*

Transfer of policies to a company's register out of South Australia.  
725, 1899, s. 12.

**17.** (1) Any policy on the South Australian register of any company shall, while it remains on the South Australian register, be governed in all respects by the laws of the State, but may, if that company thinks fit, be transferred at the request of the policy holder to the register of that company in any other country.

(2) Any policy so transferred shall, until it is re-transferred to the South Australian register of the company, be treated in the State in all respects as a policy issued in the country to which the register pertains, and in particular shall be treated in the State as governed by the laws of that country with regard to assignments and the extent, if any, to which policies are protected from creditors.

18. Any policy on the register of a company elsewhere than in the State may, if the company think fit, be transferred at the request of the policy holder to the South Australian register of that company. Any such policy so transferred shall, so long as it is on the South Australian register of the company, be governed by the laws of the State.

Transfer of policies to a company's South Australian register.  
725, 1899, s. 13.

19. The transfer of a policy from the South Australian register of any company to the register of that company in any other country, or from the register of any company in any other country to the register of the company in the State, shall be made in such manner as that company from time to time directs.

Mode of transfer.  
725, 1899, s. 14.

20. All policies for the time being on the South Australian register of any company shall, for the purposes of this Act, be South Australian liabilities of such company.

Policies on South Australian register to be South Australian liabilities  
725, 1899, s. 15.

#### *Surrender Value of Policies.*

21. Every company shall declare the surrender value at which it becomes bound to accept its policies, and no policy shall lapse to the company for non-payment of premium so long as the premiums and interest in arrear are not in excess of the surrender value.

Surrender value to be declared.  
277, 1882, s. 47.  
Of. U.K.  
9 Edw. 7  
c. 49, Sixth Sch.

#### *Assignment of Policies.*

22. Every assignment of a policy may be made by memorandum of transfer indorsed upon the 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.  
277, 1882, s. 64.  
Of. U.K.  
30 & 31 Vict.  
c. 144, s. 1.

23. (1) 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 the 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 the State or his deputy.

Notice and registration.  
277, 1882, s. 65.  
Of. U.K.  
30 & 31 Vict.  
c. 144, s. 3.

s. 21. MARSHALL AND OTHERS v. THE CITY MUTUAL LIFE ASSURANCE SOCIETY LIMITED (1934) S.A.S.R. 35; affirmed by 51 C.L.R. 666; 8 A.L.J. 273. S. 21 only requires a company to declare surrender values when it has contracted to pay cash in consideration of being relieved from its liability under the policy.

s. 22. THE BANK OF SOUTH AUSTRALIA LTD. v. KINGDON (1889) 23 S.A.L.R. 53; 11 Austr. Digest 892. S. 22 does not affect equitable mortgages created without writing.

(2) Thereafter the assignee may sue, as well at law as in equity, in his own name, on the policy assigned, and the receipt of the assignee shall be a valid discharge, both at law and in equity, for all moneys payable under the policy.

(3) Every such memorandum of transfer signed as provided in subsection (1) of this section shall be conclusive evidence of the registration thereof, and of the date of that registration.

No notice of mortgage or trusts.  
277, 1882,  
s. 66.

**24.** If any policy is assigned by way of mortgage, or upon any trust, that 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.

*Satisfaction of Liabilities of Companies.*

Discharge of South Australian liabilities of foreign companies.  
277, 1882,  
ss. 11, 13.

**25.** (1) Every foreign company shall keep a separate account of all the life assurance business transacted by it in the State, and of the entire assets of the company in the State.

(2) If a foreign company becomes bankrupt, or is ordered to be wound up, the entire assets of the company in the State shall be applied, so far as they extend, in or towards satisfaction of the liabilities of the company in the State ; and no part of those assets shall be applied in payment of any liabilities of the company incurred elsewhere than in the State until the whole of the liabilities incurred in the State have been paid in full.

(3) Any director, agent, officer, or servant of any company wilfully committing or assisting in the commission of any breach of this section shall be deemed guilty of a breach of trust, and be liable to replace the amount applied contrary to this section, and shall also be deemed guilty of a misdemeanor punishable by imprisonment for any term not exceeding three years, or by a fine not exceeding five hundred pounds.

Distribution of assets of insolvent foreign company.  
277, 1882,  
s. 12.

**26.** (1) If any foreign company is adjudged bankrupt, or ordered to be wound up, elsewhere than in the State, that company, so far only as regards its assets and liabilities in the State may, upon the application of any policy holder or shareholder be ordered to be wound up in the State in like manner as if it were registered under the Companies Act, 1934.

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S. 24. *SMEATON V. THE MUTUAL LIFE ASSOCIATION OF AUSTRALIA* (1904) S.A.L.R. 147. S. 19 of the Stamp Duties Act, 1923, does not render it necessary to indorse on a transfer by way of security of a policy of life assurance a statement that the transfer is for securing payment of money.

(2) Proof that the company has been adjudged bankrupt, or ordered to be wound up, shall be conclusive evidence that it is unable to pay its debts.

27. (1) Every company transacting other business besides life assurance business shall keep a separate account of all receipts in respect of the life assurance business of the company.

Separation of life assurance and other business.

277, 1882,

s. 14.

Cf. U.K.

9 Edw. 7

c. 49, s. 3.

(2) Those receipts shall be carried to and form a separate fund to be called the "Life Assurance Fund" of the company, and that 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 business 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.

28. (1) In respect to any company existing on the seventeenth day of November, eighteen hundred and eighty-two, the exemption of the life assurance fund of the company from liability for any obligations other than to its life assurance policy-holders shall have reference only to the contracts entered into after that date, unless by the constitution of the company such an exemption existed before that date.

Application of preceding section to existing companies.  
277, 1882,  
s. 15.

(2) This and the preceding section shall not apply to any contracts made by any company existing on the seventeenth day of November, eighteen hundred and eighty-two, if by the terms of the deed of settlement or articles of association of the company, the whole of the profits of all the business are paid exclusively to the holders of life and endowment policies or annuities and the liability of the insurers distinctly appears on the face of those contracts: Provided that this Act shall not diminish the liability of the life assurance fund for any contracts of the company entered into before the said date.

### *Amalgamations and Transfers.*

29. (1) 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 those companies may apply to the court by petition to sanction the proposed arrangement.

Amalgamation or transfer.  
277, 1882,  
s. 37.  
Cf. U.K.  
9 Edw. 7  
c. 49, s. 13  
(1).

(2) Fourteen days' previous notice of that application shall be published in the *Gazette*.

(3) The court, after hearing the directors and other persons whom it considers entitled to be heard upon the petition, may

confirm the arrangement if it is satisfied that no sufficient objection to it has been established.

Procedure.  
277, 1882,  
s. 38.  
Cf. U.K.  
9 Edw. 7  
c. 49, s. 13  
(3).

**30.** (1) Before any such application is made to the court, the applicants shall forward by post to every policy-holder of either company in the case of an amalgamation, or of the transferred company in case of a transfer,—

- (a) notice of the application ; and
- (b) a statement of the nature of the amalgamation or transfer ; and
- (c) an abstract containing the material facts embodied in the agreement or deed under which the amalgamation or transfer is proposed to be effected ; and
- (d) copies of the actuaries' or other reports upon which that agreement or deed is founded.

(2) The said documents shall be addressed to the registered or other known address of each policy-holder, within such period as to admit of their being delivered in due course of post fourteen days at least before the day named for the hearing of the application.

(3) In proving service of any such document it shall be sufficient to prove that the document was properly addressed and put into the post office.

(4) The agreement or deed under which the amalgamation or transfer is effected shall be open for the 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 provided for in this section.

Conditions.  
277, 1882,  
s. 39.

**31.** The court shall not sanction any amalgamation or transfer if 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 the amalgamation or transfer.

Confirmation.  
277, 1882,  
s. 40.

**32.** No company shall amalgamate with another, or transfer its business to another, unless the amalgamation or transfer is confirmed by the court in accordance with this section: Provided 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.

**33.** (1) 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—

Statements in case of amalgamation or transfer.  
277, 1882, s. 41.  
Of. U.K. 9 Edw. 7 c. 49, s. 14.

- (a) certified copies of statements of the assets and liabilities of the companies concerned in the amalgamation or transfer ;
- (b) a statement of the nature and terms of the amalgamation or transfer ;
- (c) a certified copy of the agreement or deed under which the amalgamation or transfer is effected ; and
- (d) certified copies of the actuarial or other reports upon which the agreement or deed is founded.

(2) 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 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 amalgamation or transfer.

**34.** 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 shall, by reason of paying after the seventeenth of November, eighteen hundred and eighty-two, any premiums due in respect of his policy or doing any other act after that date, be deemed to have abandoned any claim which he would have had against the first-mentioned company on due payment of premiums to that company, or to have accepted, in lieu thereof, the liability of the other company, unless that abandonment and acceptance have been signified by some writing signed by him, or by his agent lawfully authorised.

Novations by policy holders.  
277, 1882, s. 42.

### *Winding up.*

**35.** (1) The court may order the winding up of any company in accordance with the Companies Act, 1934, on the petition of five or more policy-holders or shareholders, if it is proved to the satisfaction of the court that the company is insolvent.

Winding up of company.  
277, 1882, s. 49.  
Of. U.K. 9 Edw. 7 c. 49, s. 15.  
Of. U.K. 25 & 26 Geo. 5 c. 45.

(2) In determining whether or not the company is insolvent the court shall take into account its contingent or prospective liabilities, under policies and annuity and other existing contracts.

Security for  
costs.  
277, 1882,  
s. 50.

**36.** The court shall not hear the petition until security for costs, for such amount as a judge thinks reasonable, has been given, and until a *prima facie* case has been established to the satisfaction of the judge.

Suspension of  
proceedings.  
277, 1882,  
s. 51.

**37.** (1) If a company against which a petition for winding up is presented has an uncalled capital of an amount which, with the future premiums receivable by the company, and the actual invested assets is 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.

(2) If, at the end of the original or any extended time for which the proceedings have been suspended, an amount has not been realised by means of calls which with the already invested assets are equal to the liabilities, an order shall be made on the petition as if the company had been proved insolvent.

Winding up of  
subsidiary  
company.  
277, 1882,  
s. 52.  
Cf. U.K.  
9 Edw. 7  
c. 49, s. 16.

**38.** (1) Where—

(a) 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 the first-mentioned company (in this Act called the subsidiary company), or the creditors thereof, has or have claims against the company to which the transfer was made (in this Act called the principal company) ; and

(b) the principal company is being wound up by or under the supervision of the court, either at or after the passing of this Act,

the court—

(i.) shall (subject as hereinafter mentioned) order the subsidiary company to be wound up in conjunction with the principal company ; and

(ii.) 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 seem to the court necessary, with a view to the companies being wound up as if they were one company.

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.

(2) In adjusting the rights and liabilities of the members of the companies between themselves, the court shall have regard to the constitution of the companies, and to the arrangements entered into between them, 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.

**39.** 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.

Reduction of contracts of insolvent company.  
277, 1882, s. 53.  
Cf. U.K. 9 Edw. 7 c. 49, s. 18.

**40.** 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 the subsidiary company to be wound up unless, after hearing all objections (if any) which are urged by or on behalf of that company against its being wound up, the court is of opinion that that company is subsidiary to the principal company, and that the winding up of the subsidiary company in conjunction with the principal company is just and equitable.

Provision in case of subsidiary company not being in process of winding up.  
277, 1882, s. 54.

**41.** An application may be made in relation to the winding up of any subsidiary company in conjunction with a principal company by any creditor or policy-holder of, or person interested in, the principal or subsidiary company.

Application for winding up subsidiary company.  
277, 1882, s. 55.

**42.** 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 those companies, together or in separate groups, as it thinks most expedient, upon the principles laid down in this Act.

Grouping of companies.  
277, 1882, s. 56.

**43.** 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.

Valuation of policies.  
277, 1882, s. 58.  
Cf. U.K. 9 Edw. 7 c. 49, s. 17 (1).

Rules of Court.  
277, 1882,  
s. 59.  
Cf. U.K.  
9 Edw. 7  
c. 49, s. 17  
(2).

**44.** The rules in the eighth and ninth schedules shall be of the same force as if they were rules made in pursuance of the Companies Act, 1934, and may be altered in manner provided by that Act; and rules may be made under that Act for the purpose of carrying into effect the provisions of this Act with respect to the winding up of companies.

*Accounts, Actuarial Investigations and Reports.*

Accounts to be  
prepared by  
life assurance  
companies.  
277, 1882,  
s. 16.  
Cf. U.K.  
9 Edw. 7  
c. 49, s. 4.

**45.** Every company transacting life assurance business only shall, at the expiration of each financial year or half-year of that company, prepare a statement of its revenue account for that year or half-year, and of its balance-sheet at the close of that year or half-year, in the forms contained in the first and second schedules to this Act.

Accounts to be  
prepared by  
companies  
carrying on  
life assurance  
and other  
business.  
277, 1882,  
s. 17.

**46.** 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 the company, prepare a statement of its revenue account for that year, and of its balance-sheet at the close of that year, in the forms contained in the third and fourth schedules to this Act.

Accounts to be  
prepared by  
foreign  
companies.  
277, 1882,  
s. 18.

**47.** Every foreign company shall, at the expiration of each financial year of the company, prepare, in addition to all other statements required by this Act, a statement of all its policies in force at the close of that year, in the form contained in the fifth schedule to this Act.

Actuarial  
report and  
abstract.  
277, 1882,  
s. 19.  
Cf. U.K.  
9 Edw. 7  
c. 49, s. 5.

**48.** Every company shall, once in five years, or at such shorter intervals as are 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 approved by the Public Trustee, 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.  
277, 1882,  
s. 20.  
Cf. U.K.  
9 Edw. 7  
c. 49, s. 6.

**49.** (1) Every company shall, within nine months after the date of each such investigation 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.

(2) Every such statement shall be made up as at the date of the last previous investigation: Provided that if such an investigation is made annually by any company, the company may prepare the statement at any time, but not less frequently than once in three years.

(3) The expression "date of each such investigation." in this section, means the date to which the accounts of each

company are made up for the purposes of each such investigation.

**50.** Any company whose head office or principal place of business is in the United Kingdom may, in lieu of the statement and abstract mentioned in the last preceding two sections, deposit at the office of the Registrar a copy, certified in accordance with the Act of the Imperial Parliament known as the Assurance Companies Act, 1909, of the last preceding statement and abstract deposited with the Board of Trade in conformity with section 7 of that Act.

Use of forms authorised by Imperial Statute, Assurance Companies Act, 1909.  
277, 1882, s. 21.  
Of. U.K. 9 Edw. 7 c. 49, s. 7.

**51.** 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.  
277, 1882, s. 22.

**52.** (1) Every statement or abstract by this Act required to be made shall be signed by the chairman and two of the directors or members of the committee of management, or by the agent of the company in the State, and by the principal officer or agent managing the life assurance business of the company in the State, and if the company has a managing director in the State, by that managing director, and shall be printed.

Statements, etc., to be signed and printed and deposited with Registrar.  
277, 1882, s. 23.

(2) The original so signed, together with three printed copies thereof, shall be deposited at the office of the Registrar within nine months of the date prescribed by this Act as the date at which the original is to be prepared; and every annual statement so deposited shall be accompanied by a printed copy of the abstract required to be made as aforesaid.

**53.** 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 the State.

Copies to be furnished.  
277, 1882, s. 24.  
Of. U.K. 9 Edw. 7 c. 49, s. 8.

**54.** (1) Every 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 shareholders of the company being corporations, and the surnames of the other shareholders, with their respective Christian names, places of abode, and descriptions, so far as they are known to the company.

List of shareholders.  
277, 1882, s. 35.  
Of. U.K. 9 Edw. 7 c. 49, s. 10.

(2) Every policy-holder or shareholder, or if the shareholder or policy-holder is a corporation, the clerk or agent of that corporation, may at all convenient times peruse that book *gratis*.

(3) The company shall furnish on application, to every shareholder and policy-holder of the company, a copy of that book, or of any part thereof, on payment of a sum not exceeding sixpence for every hundred words to be copied for such purpose.

Deed of settlement to be printed.

277, 1882,  
s. 36.  
Of. U.K.  
9 Edw. 7  
c. 49, s. 11.

**55.** Every company which is not registered under the Companies Act, 1892, or the Companies Act, 1934, 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.

Inspection of deposited documents.

277, 1882,  
s. 43.  
Of. U.K.  
9 Edw. 7  
c. 49, s. 20.

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

Documents to be received in evidence.

277, 1882,  
s. 44.  
Of. U.K.  
9 Edw. 7  
c. 49, s. 21.

**57.** (1) Every statement, abstract, or other document deposited with the Registrar under this Act shall be receivable in evidence.

(2) Every document purporting to be certified by the Registrar to be any document so deposited, and every document purporting to be certified by the Registrar to be a copy of any document so deposited, shall, if produced out of the custody of the Registrar, be deemed to be that deposited document, or a copy thereof.

(3) Any such copy shall be received in evidence as if it were the original document, unless some variation between it and the original document is proved.

#### *Foreign Companies.*

Agent to be appointed for foreign companies.

277, 1882,  
s. 25.

**58.** Every foreign company shall, before doing business in the State, appoint in writing, a person resident in the State as general agent, upon whom all lawful processes against the company may be served with like effect as if the company existed in the State; and the company shall by that writing agree that any lawful process against the company which is served on the general agent so appointed shall be of the same legal force and validity as if served on the company.

Copy of writing to be filed.

277, 1882,  
s. 26.

**59.** A copy of the writing, duly certified and authenticated, shall be filed in the office of the Registrar, and a copy certified by him shall be sufficient evidence of the original.

**60.** The agency of the person appointed shall continue while any liability remains outstanding against the company in the State, and the power conferred by the writing shall not be revoked until the same power is given to another person by another writing and a copy of that other writing duly certified and authenticated filed in the office of the Registrar.

Agency to continue while liability outstanding.  
277, 1882,  
s. 27.

**61.** Service of any process, notice, or otherwise upon an agent appointed under this Act shall be sufficient service upon the company which appointed him.

Service on agent sufficient.  
277, 1882,  
s. 28.

**62.** 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, shall be guilty of an offence and liable to a fine not exceeding two hundred and fifty pounds.

Penalty for non-compliance.  
277, 1882,  
s. 29.

**63.** Every contract for life assurance made by any foreign company which has not complied with sections 58 to 62, 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 66 and a foreign company which neglects to appoint and keep appointed a general agent as required by this Act shall not recover any premium or other payment on any contract of life assurance with a person resident in the State.

When contracts valid.  
277, 1882,  
s. 30.

*Miscellaneous general provisions.*

**64.** Every company which makes default in complying with any provision of this Act shall not only be liable to the penalties set forth in section 66, but may also, if it appears to the Governor that the default has continued for three months, be prohibited by the Governor from transacting business within the State, either absolutely or for a time, as the Governor thinks fit.

Prohibition of companies from transacting business.  
277, 1882,  
s. 31.

**65.** Any such absolute or temporary prohibition shall be published in the *Gazette*; and if any such company, or any person as agent for such company or otherwise for or on behalf of any such company, after any such absolute prohibition, or during any such temporary prohibition, receives any application for any life assurance, or accepts any premium for any life assurance or otherwise carries on the business of life assurance within the State, that company and person shall each be liable to a penalty of two hundred and fifty pounds.

Prohibition to be published in *Government Gazette*.  
277, 1882,  
s. 32.

Penalty for  
non-compli-  
ance with Act.  
277, 1882,  
s. 46.  
Cf. U.K.  
9 Edw. 7  
c. 49, s. 23.

**66.** (1) Every company which makes default in complying with any requirement of this Act, and continues 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 fine not exceeding fifty pounds for every day during which the default continues ; and in the case of a foreign company the general agent as well as the company shall be liable to that penalty.

(2) If a company registered under The Companies Act, 1892, or the Companies Act, 1934, continues in such default for a period of three months after notice of default by the Treasurer, which notice shall be published in one or more newspapers, as the Treasurer may direct, the court may order the winding up of the company, in accordance with the Companies Act, 1934, upon the application of one or more policy-holders or shareholders.

False state-  
ments.  
277, 1882,  
s. 46.  
Cf. U.K.  
9 Edw. 7  
c. 49, s. 24.

**67.** If any statement, abstract, or other document required by this Act is false in any particular to the knowledge of any person who signs it, that person shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be imprisoned for any term not exceeding three years, or to a fine not exceeding five hundred pounds.

Penalty for  
fraud.  
277, 1882,  
s. 29.

**68.** Any person 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 fine not exceeding two hundred and fifty pounds.

Notices to  
policy holders.  
277, 1882,  
s. 60.  
Cf. U.K.  
9 Edw. 7  
c. 49, s. 26.

**69.** 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 that policy are usually sent ; and any notice so addressed and sent shall be deemed and taken to be notice to the holder of that policy.

Statements to  
be laid before  
Parliament.  
277, 1882,  
s. 61.  
Cf. U.K.  
9 Edw. 7  
c. 49, s. 27.

**70.** The Treasurer shall lay annually before Parliament the statements and abstracts of reports deposited with the Registrar under this Act during the preceding year.

Probate or  
administration  
may be dis-  
pensed with in  
certain cases.  
277, 1882,  
s. 62.

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

72. 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 dis-  
charges.  
277, 1882,  
s. 63.

73. It shall be the duty of the Public Trustee to secure the due observance by every company of the provisions of this Act; and the Governor may, by regulation to be published in the *Government Gazette*, declare what fees shall be payable by companies in respect of the duties to be performed hereunder by the Public Trustee.

Duties of  
Public Trustee  
under Act.  
277, 1882,  
s. 67.

74. (1) All offences (not being expressed to be misdemeanours under this Act) shall be disposed of summarily.

Proceedings for  
offences and  
application of  
fines.

(2) The court imposing any fine under this Act may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings or in or towards rewarding the person on whose information or at whose suit the fine is ordered.

277, 1882,  
s. 48.

## SCHEDULES.

## FIRST SCHEDULE.

Revenue Account

for the year ending

19 . (Date)	£ s. d.	19 . (Date)	£ s. d.
Amount of funds at beginning of 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 deduction of the amounts paid and received in respect of re-assurances.

## SECOND SCHEDULE.

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

## THIRD SCHEDULE.

Revenue Accounts 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		Annuities .....	
policies assuring £ , and yielding an annual income of £ ,		Commission .....	
after deduction of re-assurances .....		Expenses of management .....	
Consideration for annuities granted .....		Other payments (accounts to be specified) .....	
Interest and dividends .....		Amount of life assurance fund at the end of the year, as per Fourth	
Other receipts (accounts to be specified).....		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 account .....		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

19

LIABILITIES.		ASSETS.	
	£ s. d.		£ s. d.
Shareholders' capital .....		<i>In South Australia—</i>	
General reserve fund (if any) .....		South 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 .....		Agent's 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 South Australia .....	
		<i>Elsewhere than in South 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 South Australia .....	
	£	Total assets .....	£

\* If the life assurance fund is in accordance with section 46 of this Act, a separate trust fund for the sole security of the life policy-holders, or 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.

## FIFTH SCHEDULE.

1. New policies issued by the  
ending

during the year

	No. of Policies.	Sum Assured.	Single Premiums.	Annual Premiums.
		£ s. d.	£ s. d.	£ s. d.
Assurance .....		(per annum)		
Endowment .....				
Annuity .....				
Total .....				

2. Policies discontinued in the  
ending

during the year

How Discontinued.	Assurance Policies.			Endowment Policies.			Annuity Policies.		
	No.	Sum Assured.	Annual Premiums.	No.	Sum Assured.	Annual Premiums.	No.	Annuity per Annum.	Annual Premiums.
		£ s. d.	£ s. d.		£ s. d.	£ s. d.		£ s. d.	£ s. d.
By death or maturity									
By surrender .....									
By forfeiture .....									
Total .....									

3. Policies of the

existing on the

	In South Australia.		Elsewhere.	
	No. of Policies.	Sums Assured.	No. of Policies.	Sums Assured.
		£ s. d.		£ s. d.
Assurance .....		(per annum).		(per annum)
Endowment .....				
Annuity .....				
Total .....				

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

	No. of Policies.	Sums Assured.	Annuity per Annum.	Annual Premiums.
		£ s. d.	£ s. d.	£ s. d.
Total issued .....				
Total discontinued .....				
Existing .....				
Annual Income from Interest .....				
Total Annual Income .....				

	£ s. d.		£ s. d.
Amount of funds on		Claims under policies, after	
19 , the beginning of		deduction of sums re-assured	
Premiums, after deduction of		Surrenders .....	
reassurance premiums .....		Annuities .....	
Consideration for annuities		Commission .....	
granted .....		Expenses of management ..	
Interest and dividends .....		Dividends and bonuses to	
Other receipts (accounts to be		shareholders (if any) .....	
specified).....		Other payments (accounts to	
		be specified) .....	
		Amount of funds on	
		19 , 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 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 deduced 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

19 .

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 values (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 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.

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 gives 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.

TENTH SCHEDULE.

*Memorandum of Transfer.*

[illegible]

### Regulations.

On 26th April, 1937, the following regulations made under the Life Assurance Companies Act, 1882, were in force:—

REGULATIONS AS TO FEES PAYABLE BY COMPANIES IN CONNECTION WITH THE DEPOSIT OF SECURITIES—

*Gazette*—27th June, 1889, p. 1800.