

INSURANCE COMPANIES (DEPOSITS) ACT, 1924-1931.

BEING

INSURANCE COMPANIES (DEPOSITS) ACT, 1924, No. 1659 OF 1924
[ASSENTED TO 8TH JANUARY, 1925.]

AS AMENDED BY

INSURANCE COMPANIES (DEPOSITS) ACT, 1930, No. 1991 OF 1930
[ASSENTED TO 20TH NOVEMBER, 1930.]

AND

INSURANCE COMPANIES (DEPOSITS) ACT, 1931, No. 2056 OF 1931
[ASSENTED TO 9TH DECEMBER, 1931.]

An Act to provide for the deposit of security by companies carrying on the business of insurance, other than life insurance, in South Australia.

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

1. This Act may be cited as the "Insurance Companies (Deposits) Act, 1924-1931."

Short title.
Cf. U.K.
9 Edw. 7
c. 49, s. 2;
20 & 21
Geo. 5 c. 43,
s. 42 (2);
24 & 25
Geo. 5 c. 23,
s. 4.
Interpreta-
tion.

2. In this Act, unless the context otherwise requires—

"company" means any person or association of persons, whether corporate or unincorporate, not being an association registered under any Act relating to friendly societies or trade unions, whether established before or after the commencement of this Act, and whether established within or without the State:

"general insurance business" means any insurance business of whatever kind not included in the term "life insurance."

Operation of Act: The operation of this Act is restricted by the (Commonwealth) Insurance Act, 1932, No. 4 of 1932. That Act requires all insurance companies to make deposits with the Commonwealth Treasurer, and takes away the obligation to make deposits under State Acts. The following sections (*inter alia*) of the Commonwealth Act are relevant:—

Deposits
under State
Acts.

7. (1) After the commencement of this Act, no State Act, whether passed before or after the commencement of this Act, to the extent to which it requires a person carrying on or proposing to carry on insurance business to make any

Deposits by
insurance
companies.
U.K. 9 Edw. 7
c. 49, s. 2;
24 & 25
Geo. 5 c. 23,
s. 4.
Amended by
1991, 1930,
s. 3.

Inserted by
1991, 1930,
s. 3.

3. (1) After the expiration of six months from the passing of this Act no company shall carry on in the State any class of general insurance business, unless it deposits with the Treasurer at the time or times specified in the schedule to this Act the sum or sums of money determined in the manner therein specified.

(1A) If, before or after the passing of the Insurance Companies (Deposits) Act, 1930, the Treasurer pursuant to section 7 makes any payment out of any such sum as aforesaid in respect of any company, the company shall not carry on business as aforesaid after the expiration of fourteen days from the giving of notice to the company by the Treasurer of the making of such payment unless it deposits with the Treasurer a sum of money equal to the said payment. Any such notice may be given by registered post.

(2) If any company carries on any class of general insurance business in contravention of the provisions of this section, the company, and its attorney, shall be severally liable to a penalty not exceeding one hundred pounds for every day on which such business is carried on.

deposit or to make any payment by way of licence fee or to make, as a condition upon which that person may carry on insurance business, any other payment shall, subject to this Act, have any force or effect: Provided that this subsection shall not affect the operation of any State Act, in force on the first day of February, one thousand nine hundred and thirty-two, in so far as the State Act imposes stamp duty upon licences issued to persons engaged in insurance business.

(2) Where, at the commencement of this Act, any amount or security is, in pursuance of any enactment which upon such commencement ceases to have effect, held by a State or by any authority of a State by way of deposit on account of any person carrying on insurance business, the State or authority shall, when so required by the Treasurer, return the amount or security to the person by whom the deposit was lodged.

(3) So much of any amount or security as is in the form of money or approved securities and is returned to any person under the last preceding subsection shall, if that person continues to carry on insurance business after the commencement of this Act, to the extent of the deposit required to be lodged by that person under this Act, be lodged by that person with the Treasurer forthwith as, or as part of, the deposit so required.

(4) Any person failing to comply with the requirements of the last preceding subsection shall be deemed to have committed an offence against section 9 of this Act.

Deposits
with States
continued
in certain
cases.

8. Where under any State Act in force on the first day of February one thousand nine hundred and thirty-two, any amount or security is held by any State or authority of a State by way of deposit by any person carrying on insurance business—

- (a) the amount or security may, until the Treasurer requires the return thereof under the last preceding section, remain deposited with that State or authority subject to the conditions contained in the State Act;
- (b) the depositor shall, to the extent of the amount or security deposited, be exempt from liability to make deposits under this Act; and
- (c) the provisions of the State Act relating to the liability of the State or authority in respect of the amount or security deposited, and the conditions upon which the amount or security is held shall remain in force so long as the amount or security is held by the State or authority.

4. (1) Every sum of money deposited with the Treasurer by a company pursuant to the next preceding section shall be invested and re-invested from time to time as occasion requires in Commonwealth or South Australian Stock of such currency and bearing interest at such rate as are in force for the time being in respect of such Commonwealth or South Australian Stock issued to ordinary investors.

Investment of deposits.
U.K. 9 Edw. 7
c. 49, s. 2
(2).
Amended by
2056, 1931,
s. 4.

(2) The interest on all such stock shall be paid to the company depositing the sum of money.

(3) The investment and redemption shall be at par.

5. (1) Notwithstanding anything in this Act, the obligation imposed by this Act upon a company to deposit with the Treasurer any specific sum of money may be satisfied in whole or in part by the deposit by the company of securities of equal value issued, or guaranteed, by the Government or the Parliament of the State or of the Commonwealth.

Alternative method of giving security.

(2) The value of any such securities shall, for the purposes of this section, be deemed to be the face value thereof: Provided that, if the market value of any securities deposited by a company under this section is at any time below par, the Treasurer may, at his discretion, and from time to time, require the company to deposit further securities to such an amount that the total market value of all the securities deposited by the company equals the total amount of the deposit required to be made by the company under this Act.

(3) Every security deposited with the Treasurer under this section shall (unless it is negotiable) bear or be accompanied by an assignment in blank executed by the company making the deposit.

(4) Every reference in this Act to the sum of money required by section 3 to be deposited with the Treasurer shall be deemed to include, *mutatis mutandis*, a reference to any securities substituted in whole or in part therefor under the authority of this section, and the Treasurer may, if he thinks fit, convert any such securities into money by sale, hypothecation or otherwise, for the purpose of satisfying any claim proved against the company making the deposit as mentioned in section 7 of this Act or for the purposes of making any payment as provided by section 7 or subsection (1a) of section 8 of this Act.

Amended by
2056, 1931,
s. 5.

6. If it is proved to the satisfaction of the Treasurer that any company has acquired the share capital of any other company or companies, and that such companies are under a common management in Australia, a deposit as required by

Where share capital of a company is acquired by some other company, one deposit may suffice.

this Act by the acquiring company shall, if the Treasurer so certifies, be a sufficient compliance with the requirements of this Act: Provided that, for the purpose of computing the sum of money required by this Act to be deposited by the acquiring company, the income of that company shall be deemed to be the sum of the incomes of the acquiring company and the company or companies whose share capital was acquired.

Application
of deposits.
Subsec. (1)
substituted by
1991, 1930,
s. 4.

7. (1) Subject to this Act, the Treasurer shall hold every sum of money deposited under this Act upon trust for the payment and satisfaction, at such time or times as he thinks fit, of all claims, arising out of any policy or contract of insurance or re-insurance issued and entered into in South Australia by the company making the deposit, of any persons assured under such policy or contract, which said claims are proved in an insolvency, bankruptcy, or winding up of the said company, whether in South Australia or elsewhere. If the said claims so proved exceed in the aggregate the amount of the sum deposited under this Act, the Treasurer shall divide the said sum ratably among the persons proving the said claims.

Inserted by
2056, 1931,
s. 4.

(1a) If satisfied as provided by section 8 that the company making the deposit has ceased to carry on general insurance business in South Australia, the Treasurer may out of the sum of money so deposited, pay and satisfy any claims arising out of any policy or contract of insurance or re-insurance issued and entered into in South Australia by the company of persons assured under such policy or contract, notwithstanding that the company is not insolvent, bankrupt, or wound up.

(2) No sum of money deposited with the Treasurer under this Act shall be liable to be attached or levied upon or made subject to any debts of or claims against the company making the deposit, except as mentioned in the next preceding subsection.

Return of
deposits.

8. (1) If any company which has deposited with the Treasurer a sum of money under this Act ceases to carry on general insurance business in the State, the company may withdraw the sum so deposited—

- (a) on the expiration of three months after service on the Treasurer of a notice in writing duly signed on behalf of the company stating that the company has ceased to carry on general insurance business in the State; and

(b) on satisfying the Treasurer that the company has not from the date of the service of the notice carried on general insurance business in the State; and

(c) on satisfying the Treasurer that all the liabilities of the company in the State are fully liquidated or provided for.

(1a) Subject to section 7, the Treasurer may, on being satisfied as to the matters referred to in paragraphs (a) and (b) of subsection (1) hereof and on request in writing made to him by or on behalf of the company or, if the company is insolvent, bankrupt, or in liquidation, made to him by or on behalf of the trustee or liquidator, as the case may be, make any payment on behalf of the company from the sum so deposited in satisfaction or partial satisfaction of any liability of the company in the State.

Subsec. (1a)
inserted by
1991, 1930,
s. 5.

(2) The Treasurer shall cause every notice served on him under this section, and also his decision with regard to the proposed withdrawal to be published at the cost of the company in such manner as he thinks fit.

(3) The decision of the Treasurer as to any of the matters mentioned in this section or section 7 shall be an administrative act and shall be final and conclusive, and no proceedings shall be brought in any court with respect to any payment by the Treasurer pursuant to this section or section 7, or to any withdrawal pursuant to this section.

Subsecs. (3)
and (4)
inserted by
2056, 1931,
s. 5.

(4) For the purposes of this section, any expenses or costs incurred in the State in or consequent upon the insolvency, bankruptcy, or winding up of a company shall be deemed to be liabilities of the company in the State.

9. All proceedings in respect of any contravention of this Act shall be disposed of summarily.

Legal pro-
ceedings.

10. The allegation in any complaint under this Act that any body or association therein named is an incorporated body under any Act shall be *prima facie* evidence of the fact alleged.

Evidence.

11. The Governor may by regulation prescribe the forms of returns necessary to be made by companies for the purpose of this Act, and may require any person or company to furnish such returns, and may make all such regulations as are necessary or convenient for the purpose of carrying this

Regulations.
Cf. U.K.
9 Edw. 7
c. 49, s. 2
(6).

Act into execution, and may by any regulation impose a penalty not exceeding one hundred pounds for breach of the same or any other regulation made under this Act.

Validation
of past pay-
ments.
Inserted by
1991, 1930,
s. 6.

12. All payments made before the passing of the Insurance Companies (Deposits) Act, 1930, by the Treasurer in pursuance of section 7 or purporting to be so made, or intended by him to be so made, from any sum deposited under this Act, shall be deemed to have been lawfully made and shall not be questioned by any court or otherwise.

THE SCHEDULE.

MANNER OF CALCULATING THE SUMS OF MONEY REQUIRED TO BE DEPOSITED PURSUANT TO SECTION 3.

The deposit required under this Act shall be the sum of two thousand five hundred pounds plus twenty-five per centum of the premium income of the company during the period of twelve months next preceding the date of making the deposit: Provided that no company shall be required to deposit more than ten thousand pounds. If at the close of any period of twelve months, calculated from the day of the year on which the first deposit was made, the amount deposited by any company is less than a sum equal to two thousand five hundred pounds plus twenty-five per centum of the premium income of the company during the said period of twelve months, the company shall forthwith deposit such further sum as will bring the total amount of the deposit up to such sum as aforesaid: Provided that in the case of a company which commences to carry on business after the expiration of three months from the commencement of this Act the foregoing provisions of this schedule shall apply as though the sum of five thousand pounds were substituted for two thousand five hundred. In this schedule "premium income" means the premium income of a company from general insurance premiums in the State after deducting re-insurances.

Regulations.

The following regulations were in force under this Act on 26th April, 1937:—

GENERAL REGULATIONS—

Gazette—4th April, 1929, p. 752.