

LIFE INSURANCE AMENDMENT BILL.

EXPLANATORY MEMORANDUM.

CLAUSE 3 of the Bill arises out of a recent decision of the Court of Appeal in *The National Bank v. Official Assignee of the Estate of Claridge* ([1925] N.Z. L.R. 305). In that case the policyholder had transferred his policy to the bank as security for a loan, and it was held by the Court that, in those circumstances, he ceased to be the policyholder within the meaning of section 65 of the Life Insurance Act, 1908. It follows from this decision that a policyholder who so transfers or assigns his policy as security loses the benefit sought to be conferred on him by section 65 in the event of his bankruptcy. The Bill remedies this defect, and at the same time extends the protection to interests in the policy that may be held by certain near relatives of the policyholder. The clause does not affect the availability of a policy as security, but relates only to its protection in the event of bankruptcy.

Clause 4: This clause amends the obviously imperfect provisions of section 66 of the Life Insurance Act, 1908. Subsection (1) of that section purports to contain an exhaustive list of classes of protected policies; subsection (2), by inference, extends that list. The Bill repeals these two subsections and substitutes a general protection of all life and accident policies, with the exception of certain classes of policies that could readily be used in fraud of creditors. Speaking generally, a policy is not within the protection afforded by the Act (1) if it is certainly payable at the end of a shorter term than seven years; or (2) if it has been purchased by means of a single premium; or (3) if it has been purchased by premiums payable during a term less than the continuance of the policy, or less than seven years: with this exception—namely, that every policy is protected that has actually been in force for at least seven years.

Clause 5: This clause enables an insurance company to transfer a policy of limited value on the death of the policyholder (not being the person insured) to any person who satisfactorily establishes his right to receive the policy, without requiring probate or letters of administration.

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives,
16th September, 1925.

Hon. Sir R. H. Rhodes.

LIFE INSURANCE AMENDMENT.

ANALYSIS.

- | | |
|--|--|
| <p>Title.</p> <p>1. Short Title.</p> <p>2. Definition of expression "person insured."</p> <p>3. Declaratory provisions as to operation of sections 65 and 66 of principal Act.</p> | <p>4. Section 66 of principal Act amended.</p> <p>5. Special provision for vesting policy of limited value in person who proves his title thereto, without requiring probate or letters of administration.</p> |
|--|--|

A BILL INTITULED

AN ACT to amend the Life Insurance Act, 1908.

Title.

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

1. This Act may be cited as the Life Insurance Amendment Act, 1925, and shall be read together with and deemed part of the Life Insurance Act, 1908 (hereinafter referred to as the principal Act).

Short Title.

2. For the purposes of this Act the expression "person insured" means the person on the contingencies of whose life the terms of any policy, as defined by Part II of the principal Act, are dependent.

Definition of expression "person insured."

3. The protection afforded to policyholders by sections sixty-five and sixty-six of the principal Act shall operate only as follows:—

Declaratory provisions as to operation of sections 65 and 66 of principal Act

(a.) Where the policyholder as defined by section forty-one of the principal Act is the person insured, then for the protection of that person or of his estate.

(b.) Where the policyholder as defined by the said section forty-one is the wife, or husband, or a lineal ancestor or descendant of the person insured, then for the protection of all or any such persons (including the person insured) and of their estates to the extent of their several interests (if any) in the policy.

(c.) Where, in any case to which the last preceding paragraph is not applicable, the policyholder as defined by the said section forty-one is a person to whom the policy has been mortgaged, transferred, assigned, or otherwise disposed of, then for the protection of the person insured, or of the wife or husband, or of any lineal ancestor or descendant of the person insured, to the extent of any residual or other interest that any such person may have in the policy.

Section 66 of
principal Act
amended.

4. Section sixty-six of the principal Act is hereby amended by repealing subsections one and two, and substituting the following as subsection one thereof:—

“(1.) The protection afforded by the *last preceding* section shall apply in respect of all policies that are dependent on accident, sickness, death, or other contingencies of life, with the following exceptions, namely:— 5

“(a.) Any policy by virtue whereof, on the survival of the person insured, a sum becomes certainly payable at the end of a fixed term of less than seven years from the date of the policy: 10

“(b.) Any policy in respect whereof premiums are payable at longer intervals than one year, or in respect whereof premiums are payable by unequal instalments, unless in any such case the policy has actually been in force for at least seven years: 15

“(c.) Any policy in respect whereof premiums are not payable during the continuance of the policy or during seven years at least, unless in any such case the policy has actually been in force for at least seven years.” 20

5. (1.) Where the holder of a policy, not being the person insured, dies in the lifetime of the person insured, the company issuing the policy may, by writing under the hand of the secretary, in its discretion and without requiring probate or letters of administration, declare that any person is the holder of such policy who proves to the satisfaction of the company— 25

(a.) That he is entitled to the benefit of the rights conferred by the policy (whether under the will of the deceased policyholder or on the intestacy of the deceased policyholder); or 30

(b.) That he is entitled to obtain probate of the will of the deceased policyholder, or letters of administration of his estate;

if the premiums actually paid on such policy do not exceed the sum of two hundred pounds, or if the sum payable under the policy, exclusive of bonuses, does not exceed two hundred pounds. 35

(2.) Where any person is declared to be the holder of a policy as aforesaid the company shall enter on the policy and shall register a memorial that such person is the holder of the policy, and thereupon such person shall become the holder of the policy, subject to all outstanding interests or equities affecting the same. 40

(3.) This section shall not apply to any policy to which section two of the Life Insurance Amendment Act, 1920, applies.

(4.) This section shall apply in the case of any such policy as aforesaid notwithstanding that the holder of the policy may have died before the passing of this Act. 45

Special provision
for vesting policy
of limited value
in person who
proves his title
thereto, without
requiring probate
or letters of
administration.