

Legislative Council.

54<sup>o</sup> VICTORIÆ, 1890.

## A BILL

To enable Assignees of Policies of Life Assurance to sue thereon in their own names.

[MR. PIGOTT;—25 September, 1890.]

**W**HEREAS it is expedient to enable assignees of policies of life assurance to sue thereon in their own names: Be it enacted by the Queen'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:—

1. Any person or corporation now being or hereafter becoming entitled by assignment or other derivative title to a policy of life assurance, and possessing at the time of action brought the right in equity to receive and the right to give an effectual discharge to the assurance company liable under such policy for moneys thereby assured or secured, shall be at liberty to sue at law in the name of such person or corporation to recover such moneys.

2. In any action on a policy of life assurance, a defence on equitable grounds, or a reply to such defence on similar grounds, may be respectively pleaded and relied upon in the same manner and to the same extent as in any other personal action.



Notice of assignment  
to be given to  
company.

3. No assignment made after the passing of this Act of a policy of life assurance shall confer on the assignee therein named, his executors, administrators, or assigns, any right to sue for the amount of such policy, or the moneys assured or secured thereby, until a written notice of the date and purport of such assignment shall have been given to the assurance company liable under such policy at their principal place of business for the time being, or, in case they have two or more principal places of business, then at some one of such principal places of business in Sydney; and the date on which such notice shall be received shall regulate the priority of all claims under any assignment; and a payment *bonâ fide* made in respect of any policy by any assurance company before the date on which such notice shall have been received shall be as valid against the assignee giving such notice as if this Act had not been passed. 5 10

Places where notices  
may be given to be  
specified on policy.

4. Every assurance company shall, on every policy issued by them after the passing of this Act, specify their principal place or principal places of business at which notices of assignment may be given in pursuance of this Act. 15

Assignment how  
made.

5. Any such assignment may be made either by endorsement on the policy or by a separate instrument, in the words or to the effect set forth in the Schedule hereto. 20

Acknowledgment of  
notice by company.

6. Every assurance company to whom notice shall have been duly given of the assignment of any policy under which they are liable, shall, upon the request in writing of any person by whom any such notice was given or signed, or of his executors or administrators, and upon payment in each case of a fee not exceeding five shillings, deliver an acknowledgment in writing, under the hand of the manager, secretary, treasurer, or other principal officer of the assurance company, of their receipt of such notice; and every such written acknowledgment, if signed by a person being *de jure* or *de facto*, the manager, secretary, treasurer, or other principal officer of the assurance company whose acknowledgment the same purports to be, shall be conclusive evidence as against such assurance company of their having duly received the notice to which such acknowledgment relates. 25 30

Interpretation.

7. In the construction and for the purposes of this Act, the expression "policy of life assurance" or "policy" shall mean any instrument by which the payment of moneys, by or out of the funds of an assurance company, on the happening of any contingency depending on the duration of human life, is assured or secured; and the expression "assurance company" shall mean and include every corporation, association, society, or company now or hereafter carrying on the business of assuring lives or survivorships, either alone or in conjunction with any other object or objects. 35 40

Not to apply to  
friendly societies.

8. This Act shall not apply to any engagement for payment on death by any friendly society. 45

Short title.

9. For all purposes this Act may be cited as the "Policies of Assurance Act of 1890."

#### SCHEDULE.

I, A.B., of (&c.), in consideration of (&c.), do hereby assign unto C.D., of (&c.), his executors, administrators, and assigns the (within) policy of assurance granted, &c. [here describe the policy]. In witness, &c. 50



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2. In any action on a policy of life assurance, a defence on equitable grounds, or a reply to such defence on similar grounds, may be respectively pleaded and relied upon in the same manner and to the same extent as in any other personal action.



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3. No assignment made after the passing of this Act of a policy of life assurance shall confer on the assignee therein named, his executors, administrators, or assigns, any right to sue for the amount of such policy, or the moneys assured or secured thereby, until a written notice of the date and purport of such assignment shall have been given to the assurance company liable under such policy at their principal place of business for the time being, or, in case they have two or more principal places of business, then at some one of such principal places of business in Sydney; and the date on which such notice shall be received shall regulate the priority of all claims under any assignment; and a payment *bonâ fide* made in respect of any policy by any assurance company before the date on which such notice shall have been received shall be as valid against the assignee giving such notice as if this Act had not been passed. 5 10

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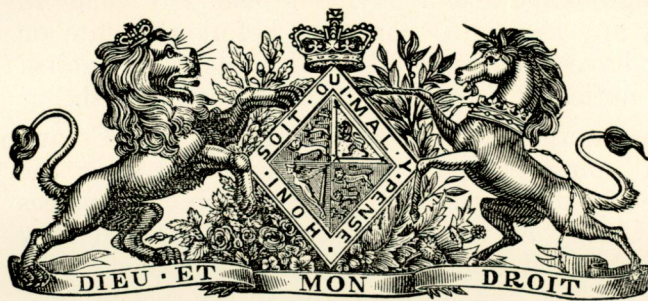


*This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.*

*Legislative Council Chamber,  
Sydney, 12th November, 1890. }*

*JOHN J. CALVERT,  
Clerk of the Parliaments.*

## New South Wales.



ANNO QUINQUAGESIMO QUARTO

## VICTORIÆ REGINÆ.

\*\*\*\*\*

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2. In any action on a policy of life assurance, a defence on equitable grounds, or a reply to such defence on similar grounds, may be respectively pleaded and relied upon in the same manner and to the same extent as in any other personal action. Defence or reply on equitable grounds may be pleaded.



*Policies of Assurance.*

3. No assignment made after the passing of this Act of a policy of life assurance shall confer on the assignee therein named, his executors, administrators, or assigns, any right to sue for the amount of such policy, or the moneys assured or secured thereby, until a written notice of the date and purport of such assignment together with such assignment or a copy thereof shall have been delivered to the assurance company liable under such policy at their principal place of business for the time being, or, in case they have two or more principal places of business, then at some one of such principal places of business in Sydney; it shall be the duty of the manager of any assurance company immediately on receipt of any such notice to endorse the hour and date of such notice being received, and such endorsement shall be *prima facie* evidence that such notice was received on the date and at the hour so endorsed, the hour and date on which such notice shall be received shall regulate the priority of all claims under any assignment; and a payment *bona fide* made in respect of any policy by any assurance company before the date on which such notice shall have been received shall be as valid against the assignee giving such notice as if this Act had not been passed.

Notice of assignment to be given to company.

4. Every assurance company carrying on business in the Colony of New South Wales shall, on every policy issued by them after the passing of this Act, specify their principal place or principal places of business in the said Colony at which notices of assignment may be given in pursuance of this Act, and shall be liable to be sued in the said Colony upon every policy becoming a claim in the said Colony, notwithstanding any provision in the policy to the contrary.

Places where notices may be given to be specified on policy.

5. Any such assignment may be made either by endorsement on the policy or by a separate instrument, in the words or to the effect set forth in the Schedule hereto.

Assignment how made.

6. Every assurance company to whom notice shall have been duly given of the assignment of any policy under which they are liable, shall, upon the request in writing of any person by whom any such notice was given or signed, or of his executors or administrators, and upon payment in each case of a fee not exceeding five shillings, deliver an acknowledgment in writing, under the hand of the manager, secretary, treasurer, or other principal officer of the assurance company, of their receipt of such notice; and every such written acknowledgment, if signed by a person being *de jure* or *de facto*, the manager, secretary, treasurer, or other principal officer of the assurance company whose acknowledgment the same purports to be, shall be conclusive evidence as against such assurance company of their having duly received the notice to which such acknowledgment relates.

Acknowledgment of notice by company.

7. Nothing in this Act contained shall operate to prevent any competent Court from enforcing any equities which may exist as between the parties to any transaction or matter relating to any policy or any interest therein or in any moneys payable thereunder.

Courts may enforce equities.

8. No insurance company shall be required to recognize any trusts or equities mentioned in any notice or assignment.

Company not affected by notice of trusts.

9. In the construction and for the purposes of this Act, the expression "policy of life assurance" or "policy" shall mean any instrument by which the payment of moneys, by or out of the funds of an assurance company, on the happening of any contingency depending on the duration of human life, is assured or secured; and the expression "assurance company" shall mean and include every corporation, association, society, or company now or hereafter carrying on the business of assuring lives or survivorships, either alone or in conjunction with any other object or objects.

Interpretation.



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[3d.]



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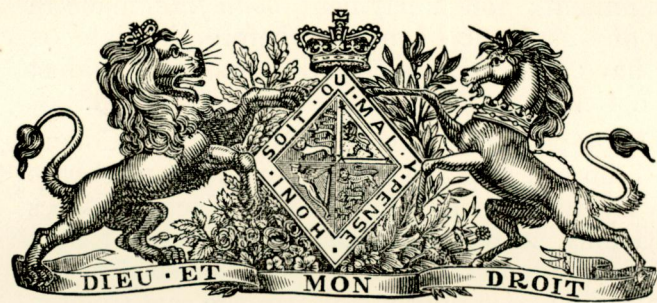


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