

BILL

No. 1 of 1924

An Act to make Uniform the Law respecting Life Insurance Contracts.

(Assented to _____, 1924)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

Preliminary.

1. This Act may be cited as "*The Life Insurance Act.*" Short title.
2. In this Act, unless the context otherwise requires,—Interpretation.
 - "Beneficiary" shall mean a person designated or appointed as one to whom or for whose benefit insurance-money is to be payable;
 - "Contract" or "contract of insurance" shall mean a contract of life insurance;
 - "Contract of life insurance" shall mean a contract by which the insurer undertakes with the insured to pay insurance-money contingently on the death, or on the duration of the life, of a designated human being;
 - "Court" shall mean the Supreme Court or a Judge thereof;
 - "Declaration" shall mean an instrument in writing signed by the insured, attached to or endorsed on a policy, or an instrument in writing, signed by the insured in any way identifying the policy or describing the subject of the declaration as the insurance or insurance fund or a part thereof or as the policy or policies of the insured or using language of like import, by which the insured designates or appoints a beneficiary or beneficiaries, or alters or revokes the designation or appointment of a beneficiary or beneficiaries, or apportions or reapportions, or appropriates or reappropriates, insurance-money between or among beneficiaries;
 - "Foreign jurisdiction" shall mean any jurisdiction other than the Province;
 - "Fraternal society" shall mean a corporation, society, order, or voluntary association incorporated or formed and carried on for the benefit of its

members and their beneficiaries and not for profit, which makes provision by its constitution and laws for payment to beneficiaries of benefits on the death or disability of its members;

“Instrument in writing” shall include a last will;

“Insurance” shall mean life insurance;

“Insurance-money” shall include all insurance-money, benefits, surplus, profits, dividends, bonuses, and annuities payable by an insurer under a contract of insurance;

“Insured” shall mean the person who makes a contract of insurance with an insurer, and, unless the context otherwise requires, includes the person whose life is insured;

“Insurer” shall include any corporation, or any society or association, incorporated or unincorporated, any fraternal society, or any person or partnership, or any underwriter or group of underwriters, that undertakes or effects, or agrees or offers to undertake or effect, a contract of insurance;

“Judge” shall mean a Judge of the Court;

“Person” shall include firm, partnership, corporation, and unincorporated society or association;

“Premium” shall mean the single or periodical payment to be made for the insurance, and includes dues and assessments.

Application
of Act.

3.—(1) Notwithstanding any agreement, condition, or stipulation to the contrary, this Act shall apply to every contract of life insurance made in the Province after the coming into force of this Act, and any term in any such contract inconsistent with the provisions of this Act shall be null and void.

(2) Unless hereinafter otherwise specifically provided, this Act shall apply to the unmatured obligations of every contract of life insurance made in the Province before the coming into force of this Act.

(3) This Act shall apply to every other contract of life insurance made after the coming into force of this Act, where the contract provides that this Act shall apply or that the contract shall be construed or governed by the law of the Province.

(4) Where this Act applies to any contract, the rights and status of beneficiaries and the powers of the insured with regard to the designation or appointment of beneficiaries and the apportionment of the insurance-money shall be governed by the provisions of this Act, whether or not the insured or any of the beneficiaries is domiciled in the Province at the time at which the contract is made, or at any time subsequent thereto.

4. A contract is deemed to be made in the Province—
- (a) if the place of residence of the insured is stated in the application or the policy to be in the Province; or
 - (b) if neither the application nor the policy contains a statement as to the place of residence of the insured, but the actual place of residence of the insured is within the Province at the time of the making of the contract.

THE CONTRACT OF INSURANCE.

5. Every contract of insurance shall be evidenced by an instrument in writing, called in this Act a "policy."

Contracts deemed to be made in the Province.
Policy to evidence a contract.

6.—(1) Every policy issued after the coming into force of this Act by an insurer other than a fraternal society shall state the name or sufficient designation of the insured, of the person whose life is insured, and of the beneficiary, the insurance-money payable, the manner of payment, the premium, and the facts which determine the maturity of the contract.

Contents of policy.

(2) Where the amount of insurance-money, exclusive of dividends and bonus, is less than one thousand dollars, the policy, notwithstanding that it is expressed to be payable to a named or designated beneficiary, may provide that the insurance-money may be paid to any relative by blood or connection by marriage of the insured or any other person appearing to the insurer to be equitably entitled to the same by reason of having incurred expense for the maintenance, medical attendance, or burial of the insured, or to have a claim against the estate of the insured in relation thereto.

Payment of policy for less than \$1,000.

7.—(1) Except in the case of a contract made with a fraternal society, no term or condition of a contract of insurance which is not set out in full in the policy or in a document or documents in writing attached to it, when issued, shall be valid or admissible in evidence to the prejudice of the insured or a beneficiary.

Invalidity of terms not set out in policy.

(2) Subsection (1) shall not apply to an alteration or modification of the contract agreed upon in writing by the insurer and the insured after the issue of the policy.

Subsequent alterations.

(3) In the case of a contract of insurance made by a fraternal society, the Act or instrument of incorporation (if any), the constitution and laws of the society and any amendments validly made to them or any of them, and the application and medical examination signed by the applicant shall constitute the contract between the society and its member.

Contracts of fraternal societies.

8.—(1) The insured and the person whose life is insured shall each disclose to the insurer every fact within his knowledge which is material to the contract.

Disclosure and misrepresentation of material facts.

(2) Any conscious failure to disclose, or any misrepresentation of, a fact material to the contract, on the part of the insured or the person whose life is insured, shall render the contract voidable at the instance of the insurer.

(3) Any misrepresentation or fraudulent concealment on the part of the insurer of a fact material to the contract shall render the contract voidable at the instance of the insured.

Contract not
void unless
fact material.

9.—(1) No contract shall be rendered void or voidable by reason of any misrepresentation, or any failure to disclose on the part of the insured or the person whose life is insured, in the application for the insurance or on the medical examination or otherwise, unless the misrepresentation or failure to disclose is material to the contract.

(2) The question of materiality shall be one of fact.

Incontest-
ability.

10. The statements made by the insured, or the person whose life is insured, in the application and on the medical examination, except fraudulent statements or statements erroneous as to age, shall be deemed to be true and incontestable after the contract has been in force for two years during the lifetime of the person whose life is insured.

Misstatement
of age.

11.—(1) Where the age of the person whose life is insured is understated in the application, the insurance-money shall be reduced to the amount which would have been payable in respect of the premium stated in the policy at the correct age, according to the tables of rates of premium of the insurer in force at the time of the issue of the policy.

(2) Where such tables of rates of premium of the insurer do not extend to or include the rates for the correct age of the person whose life is insured, the insurance-money shall be reduced in the proportion that the premium at the age stated in the application bears to the premium at the correct age, both premiums for this purpose being the net premiums shown in or deduced from the British Offices Life Table, 1893, O.M.⁽⁵⁾, the rate of interest being three and one-half per cent. per annum, or, at the option of the insurer, both premiums for this purpose being calculated on the same principles as govern the calculation of premiums for ages mentioned in the table of rates of premium of the insurer in force at the time of the issue of the policy.

(3) Where the age of the person whose life is insured is over-stated in the application, and the policy does not provide that in that event the insurance-money shall be increased, the insurer shall repay the amount by which the premium paid exceeds the premium which would have been payable in respect of the correct age, but if the policy so provides, the insurance-money shall be increased to the amount which would have been payable in respect

of the premium stated in the policy at the correct age according to the tables of rates of premium of the insurer in force at the time of the issue of the policy.

(4) Where, by the terms or for the purposes of the contract, an addition is made to the age stated in the application, and the age is understated in the application, then, for the purpose of the calculation, the correct age and the stated age shall respectively be deemed to be the correct age and the stated age increased by such addition.

(5) Where the application or contract expressly limits the insurable age, and the correct age at the date of the application exceeds the age so limited, the contract shall, during the lifetime of the person whose life is insured, but not later than five years from the date of the policy, be voidable at the option of the insurer within thirty days after the error comes to its knowledge.

12.—(1) Unless the contract or the application otherwise expressly provides, the contract shall not take effect or be binding on either party until the policy is delivered to the insured, his assign, or agent, or the beneficiary named therein, and payment of the first premium is made to the insurer or its duly authorized agent, no change having taken place in the insurability of the life about to be insured subsequent to the completion of the application.

(2) Subject to the provisions of section 13, where a cheque, bill of exchange, or promissory note payable to the insurer, or other written promise to pay the insurer, is given, whether originally or by way of renewal, for the whole or part of any premium, and the instrument, if payable on demand, is not paid upon presentment made on or after its date, or, if payable at a future time, is not paid upon presentment made at or after its maturity, the contract shall, unless otherwise provided in the policy, be void.

13.—(1) Where any premium (not being the initial premium) under any contract is unpaid, the insured, his assign or agent, or any beneficiary, may, within a period of grace of thirty days (or, in the case of a contract providing for the payment of premiums weekly, four weeks) from and excluding the day on which the premium is due, pay, deliver, or tender to the insurer at its head office, or at its chief agency in the Province, or to its collector or authorized agent, the sum in default.

(2) The payment may be made by sending a post-office order or postal note, or a cheque payable at par and certified by a bank doing business in Canada under *The Bank Act*, or a draft of such bank, or a money-order of an express company doing business in the Province, in a registered letter duly addressed to the insurer, and the payment, delivery, or tender shall be deemed to have been made at the time of the delivery and registration of the letter at any post-office.

- Effect of such payment.** (3) Payment, delivery, or tender as aforesaid shall have the same effect as if made at the due date of the premium.
- Concurrent period of grace under contract.** (4) The period of grace hereinbefore in this section mentioned shall run concurrently with the period of grace (if any) allowed by the contract for the payment of a premium or of an instalment of premium.
- Contracts deemed to be in force during period of grace.** (5) Upon the maturity of the contract during the said period of grace and before the overdue premium is paid, the contract shall be deemed to be in as full force and effect as if the premium had been paid at its due date, but the amount of such premium with interest (not in excess of six per cent. per annum) and the balance (if any) of the current year's premium may be deducted from the insurance-money.
- Longer period of grace under contract not affected.** (6) Nothing in this section shall deprive the insured of the benefit of any period of grace allowed by the contract in excess of the period of grace allowed by this section.
- Duty of insurer to furnish copy of application.** **14.** The insurer shall, upon request, furnish to the insured a true copy of the application for the insurance.
- Meaning of "heirs" and like words in policy of declaration.** **15.** In a policy or a declaration the words "heirs," "legal heirs," "lawful heirs," or "next of kin" shall mean all persons entitled to share in the distribution of the personal estate of an intestate.
- Certain persons not to be deemed agents of insured.** **16.** No officer, agent, employee, or servant of the insurer or any person soliciting insurance, whether an agent of the insurer or not, shall to the prejudice of the insured be deemed to be for any purpose whatever the agent of the insured in respect of any question arising out of the contract of insurance.
- INSURABLE INTEREST.**
- Insurable interest in one's own life.** **17.** Every person has an insurable interest in his own life.
- Insurable interest in lives of others.** **18.** Without restricting the meaning which "insurable interest" now has in law, each of the following persons has an insurable interest:
- (a) A parent in the life of his child under twenty-five years of age;
 - (b) A husband in the life of his wife;
 - (c) A wife in the life of her husband;
 - (d) One person in the life of another, upon whom he is wholly or in part dependent for support or education, or from whom he is receiving support or education;
 - (e) A corporation or other person in the life of its or his officer or employee;

(f) A person who has a pecuniary interest in the duration of the life of another person, in the life of that person.

19. The contract shall be void if at the time at which it would otherwise take effect and be binding the insured has no insurable interest. Contract void without insurable interest.

20. Where the insured has at the time at which the contract takes effect an insurable interest in the life insured, it is not necessary for the validity of the contract or any assignment that any beneficiary, or any person claiming under an assignment, or by will or by succession, have an insurable interest. When insurable interest not necessary.

POLICIES ON THE LIVES OF MINORS.

21.—(1) A minor over the age of fifteen years may effect contracts of insurance on his life and may do in respect of any such contract or of any contract of insurance on his life which he may have effected before attaining the said age whatever a person of full age may lawfully do, including the surrender of the contract, the borrowing of money on its security, the designation of beneficiaries and the alteration and revocation thereof, and the giving of receipts or discharges. Powers of minor respecting insurance on his own life.

(2) In the case of insurance effected by a person of full age upon the life of a minor, the minor, after attaining the age of fifteen years, may, with the written consent of the person who effected the insurance, do in respect of the insurance whatever he might have done in respect of a contract within the meaning of subsection (1). After the death of the person who effected the insurance, the written consent may be given by a parent or duly appointed guardian of the minor if the insurance was effected by a parent, and, in other cases, by the personal representative of the person who effected the insurance.

22.—(1) No insurer shall insure the life of a child under ten years of age in any sum, or pay on the death of a child under ten years of age any sum, which alone or together with any sum payable on the death of the child by any other insurer exceeds the following sums respectively: Restrictions on insurance on lives of children under ten years.

- Twenty dollars if the child dies under the age of one year;
- Fifty dollars if the child dies under the age of two years;
- Seventy-five dollars if the child dies under the age of three years;
- One hundred dollars if the child dies under the age of four years;
- One hundred and thirty dollars if the child dies under the age of five years;

One hundred and sixty dollars if the child dies under the age of six years;
 Two hundred dollars if the child dies under the age of seven years;
 Two hundred and fifty dollars if the child dies under the age of eight years;
 Three hundred and twenty dollars if the child dies under the age of nine years;
 Four hundred dollars if the child dies under the age of ten years.

(2) Where the age of the child at the date of the contract is less than ten years, and the insurer knowingly or without sufficient inquiry enters into any contract prohibited by this section, the premiums paid thereunder shall be recoverable from the insurer by the person paying the same, together with interest thereon at six per cent. per annum.

(3) Every insurer which undertakes or effects insurance on the lives of children under ten years of age shall print the scale of benefits provided in subsection (1) in conspicuous type upon every circular or advertisement soliciting, and upon every policy of, such insurance.

(4) An insurer which knowingly contravenes the provisions of subsection (1) or (3) shall be guilty of an offence and liable to the penalties provided by law for the illegal conduct of insurance business in the Province.

(5) Nothing in subsection (1) and (3) shall apply to such contracts as were in force at the date of the passing of this Act or to a contract where the insured has a pecuniary interest in the life, or which limits the payment on the death of the child before attaining ten years of age to the premiums that have been paid, with interest at the rate provided for in the contract.

BENEFICIARIES.

Classes of beneficiaries.

23.—(1) Beneficiaries for value are beneficiaries who have given valuable consideration other than marriage and who are expressly stated to be, or described as, beneficiaries for value in the policy or in an endorsement thereon or in a subsequent declaration signed by the insured.

(2) Preferred beneficiaries are the husband, wife, children, grandchildren, father, and mother of the person whose life is insured.

(3) Ordinary beneficiaries are beneficiaries who are not preferred beneficiaries, beneficiaries for value, or assignees for value.

Rights of beneficiary for value or assignee for value.

24. A beneficiary for value and the assignee for value of a policy shall have a vested interest in the policy, and nothing in this Act shall enable the insured to restrict, interfere with, or defeat the rights of such beneficiary or assignee.

25.—(1) Subject to the rights of beneficiaries for value and assignees for value and to the provisions of this Act relating to preferred beneficiaries, the insured may designate the beneficiary by the contract or by a declaration, and may from time to time by any declaration appoint, appropriate, or apportion the insurance-money, or alter or revoke any prior designation, appointment, appropriation, or apportionment, or substitute new beneficiaries, or divert the insurance-money wholly or in part to himself or his estate, and may surrender the contract to the insurer, borrow from the insurer upon the security of the contract, receive the surplus or profits for his own benefit, and otherwise deal with the contract as may be agreed upon between him and the insurer.

(2) Where the declaration is made by a last will, the declaration as against a subsequent declaration shall be deemed to have been made at the date of the will and not at the death of the testator. A declaration contained in an unrevoked instrument purporting to be a will shall be effective as a declaration notwithstanding that the instrument is invalid as a testamentary document.

26. Where two or more beneficiaries are designated otherwise than alternatively, but no apportionment is made, they shall share equally.

27. Where there are several ordinary beneficiaries, if one or more of them die before the maturity of the contract and no apportionment or other disposition is subsequently made by the insured, and it is not otherwise provided for in the policy or prior declaration, the share of the deceased beneficiary or beneficiaries shall be payable to the surviving beneficiary or beneficiaries, in equal shares, if more than one, and if all the beneficiaries or the sole beneficiary die before the maturity of the contract and no other disposition is made by the insured, and it is not otherwise provided for in the contract or prior declaration, the insurance-money shall be payable to the insured or his estate.

28.—(1) Where the insured, in pursuance of the provisions of section 25, designates as beneficiary or beneficiaries a member or members of the class of preferred beneficiaries, a trust is created in favor of the designated beneficiary or beneficiaries, and, so long as any of the class of preferred beneficiaries remains, the insurance-money, or such part thereof as is or has been apportioned to a preferred beneficiary, shall not, except as otherwise provided in this Act, be subject to the control of the insured, or of his creditors, or form part of the estate of the insured.

(2) The provisions of subsection (1) are subject to any vested rights of beneficiaries for value and assignees for value, to the provisions hereinafter contained relating to

preferred beneficiaries, and to any contingency or limitation stated in the instrument by which the insured first designates the preferred beneficiary or beneficiaries: Provided that no provision in such instrument reserving to the insured the right to revoke or abridge the interest of a preferred beneficiary shall be effective so as to enable the insured to revoke or abridge such interest in favor of any person not in the class of preferred beneficiaries.

(3) The insured, in the instrument by which he designates the preferred beneficiary or beneficiaries, may provide that if a designated beneficiary is not living at the maturity of the contract, the insurance-money or any part thereof that would have been payable to such designated beneficiary, if living, shall be payable to the insured, to his estate, or to any other person, whether or not such person is a member of the class of preferred beneficiaries, or may provide that a designated beneficiary shall be entitled only to the income derived from the insurance-money or any part thereof for life or for a term of years or otherwise.

Disposal of insurance-moneys within class preferred beneficiaries.

29. Notwithstanding the designation of a preferred beneficiary or beneficiaries, the insured may subsequently exercise the powers conferred by section 25 so as to restrict, limit, extend, or transfer the benefits of the contract to any one or more of the class of preferred beneficiaries to the exclusion of any or all others of the class, or wholly or partly to one or more for life or any other term, or subject to any limitation or contingency, with remainder to any other or others of the class.

Meaning of "wife," "children," and "husband" in policy or declaration.

30.—(1) Subject to the provisions of the next following section, where by the policy or by a subsequent declaration the insurance-money or any part of it is made payable to or for the benefit of the wife of the person whose life is insured, his future wife, his wife and children or his future wife and children generally, or his children generally, the word "wife" means the wife living at the maturity of the contract, and the word "children" includes all the children of the person whose life is insured living at the maturity of the contract as well as the issue living at the maturity of the contract of any child of his who predeceases him, such issue taking by representation.

(2) The provisions of subsection (1) shall, *mutatis mutandis*, apply to insurance effected by a woman on her life where the insurance-money or any part of it is made payable to or for the benefit of her husband or future husband, her husband and children or future husband and children generally, or her children generally.

(3) Subsections (1) and (2) shall not apply where the beneficiary or beneficiaries is or are designated by name, or otherwise definitely indicated.

31.—(1) In case of the death, before the maturity of the contract, of any preferred beneficiary, whether designated by name or not, his share may be dealt with or disposed of by the insured under section 25 to the same extent as if the deceased beneficiary had not been a preferred beneficiary.

(2) Subject to subsection (1) and to any provision in the policy or a declaration, the share of a preferred beneficiary who dies before the maturity of the contract shall be payable as follows:

- (a) If the deceased beneficiary was a child of the person whose life is insured, and has left issue surviving at the maturity of the contract, his share, and any share to which he would have been entitled if he had survived, shall be payable to such issue in equal shares;
- (b) If there is no person entitled under clause (a), the share of such deceased beneficiary shall be payable to the surviving designated preferred beneficiary or beneficiaries in equal shares;
- (c) If there is no person entitled under clauses (a) and (b), the share of such deceased beneficiary shall be payable in equal shares to the wife or husband and the child or children of the person whose life is insured living at the maturity of the contract, and the issue then living of any deceased child of the person whose life is insured, such issue taking in equal shares the share to which his or their parent would have been entitled if living;
- (d) If there is no person entitled under clauses (a), (b), and (c), the share of such deceased beneficiary shall be payable to the insured or his estate.

32.—(1) Where the wife or husband of the person whose life is insured is designated as beneficiary, and is subsequently divorced, all interest of the beneficiary under the policy shall pass to the insured or his estate, unless such beneficiary is a beneficiary for value or an assignee for value.

(2) Where a divorce has been granted on the application of the beneficiary, the beneficiary shall be estopped from denying the validity of the divorce for the purpose of this section.

(3) Until the insurer receives notice in writing of the Act of Parliament, judgment, decree, or order granting the divorce, it may deal with the insurance-money in the same manner and with the same effect as if no divorce had been granted, and before paying the insurance-money the insurer shall be entitled to receive the original judgment, order, or decree, or a duly verified copy thereof, or a duly verified copy of the Act of Parliament, or a copy thereof printed by the King's Printer, as the case may be.

(4) Nothing in subsection (3) shall affect the right of any person entitled to payment by virtue of such divorce to recover from any person to whom payment is made by the insurer.

Circumstances
disentitling
wife or
husband as
beneficiary.

33. Where the wife or husband of the person whose life is insured is designated as beneficiary, and it appears, in the case of the wife, that she is living apart from her husband in circumstances disentitling her to alimony, or in the case of the husband, that he is living apart from his wife in circumstances disentitling him to an order for restitution of conjugal rights, and that there is no other member of the class of preferred beneficiaries whom the insured may designate as beneficiary in place of the designated beneficiary, the Court may, on the application of the insured, and on such terms as may seem fit, declare the designated beneficiary disentitled to claim the benefit of the provisions of this Act relating to preferred beneficiaries, and the insured may then deal with the policy as provided by section 25.

Surrender of
or borrowing
on contract
where
preferred
beneficiary.

34.—(1) Where a preferred beneficiary is designated, the insured may surrender the contract to the insurer and accept in lieu thereof any paid-up or extended insurance provided by the contract in favour of the preferred beneficiary.

(2) Where a preferred beneficiary is designated, the insured may from time to time borrow from the insurer on the security of the contract such sums as may be necessary and are applied to keep it in force, and the sums so borrowed, with such interest as may be agreed on, shall be a first charge on the contract and the insurance-money.

Disposal of
surplus or
profits where
preferred
beneficiary.

35.—(1) Notwithstanding the designation of a preferred beneficiary, any person who has effected a participating contract may either receive the surplus or profits for his own benefit or may from time to time either apply the same in payment or reduction of premiums, or direct them to be added to the insurance-money; and the share of each beneficiary shall, in the last case, be proportionately increased.

(2) The insurer shall not be obliged to pay or apply such surplus or profits in any manner contrary to the stipulations in the contract.

Dealings with
contract with
consent of
beneficiaries

36.—(1) Where all the designated preferred beneficiaries are of full age, they and the insured may surrender the contract or may assign or dispose of the same, either absolutely or by way of security, to the insurer, the insured, or any other person, but notwithstanding anything herein contained the insured may exercise the borrowing-powers conferred by section 34 without the concurrence of any beneficiary.

(2) Where the beneficiaries, whether designated by name or not, include the wife or children or grandchildren, it shall be sufficient, so far as their interests are concerned, if all then living are of full age and join in the surrender, assignment, or disposal.

37. Where by a contract a person is to become entitled to insurance-money only in the event of the death of another person named as a beneficiary, it shall not be necessary for such first-mentioned person to join in any surrender, assignment, or disposal of the contract. Consent of contingent beneficiary not necessary.

38.—(1) Where the insurance-money is payable in instalments and the contract, or a subsequent instrument in writing signed by the insured and delivered to the insurer, expressly provides that the beneficiary shall not have the right to commute the instalments or to alienate or assign his interest therein, the insurer shall not commute the instalments or pay them to any person other than the beneficiary, and the instalments shall not, in the hands of the insurer, be subject to legal process except in an action to recover for necessaries supplied to the beneficiary or his or her infant children. Dealings with insurance-money payable in instalments.

(2) Notwithstanding anything contained in subsection (1)—

- (a) the insured may, by an instrument in writing signed by him and delivered to the insurer, declare that the beneficiary shall have the right to commute, or alienate or assign, as the case may be;
- (b) the court may, upon the application of the insurer or the beneficiary, upon at least ten days' notice, declare that in view of special circumstances the beneficiary shall have the right to commute, or alienate or assign, as the case may be;
- (c) after the death of the beneficiary his personal representatives may commute any instalments payable to them.

(3) In this section the word "instalments" includes insurance-money or any part thereof held by the insurer under the provisions of the next following section.

39. Subject to the provisions of this Act relating to preferred beneficiaries, where it is so expressly provided in the contract or by any subsequent agreement in writing, the insurer may hold the insurance-money or any part thereof after maturity of the contract subject to the order of the beneficiary, or upon such trusts or other agreements for the benefit of the beneficiary as may be provided in the contract or agreement, allowing and paying to the person entitled to such insurance-money, or any part thereof, interest thereon at a rate not less than that specified in the contract or agreement for the term during which the insurer retains such insurance-money or any part thereof. Insurance-money held by insurer subject to terms of contract or other directions.

Payment by insurer without notice of change in title to insurance-money.

40.—(1) Until the insurer receives notice in writing of the making of an order declaring a beneficiary disentitled to insurance-money, or of any instrument in writing affecting the insurance-money or any part thereof or of the appointment or the revocation of the appointment of a trustee, it may make any payment which would have been lawful and valid except for such order, instrument in writing, appointment or revocation of appointment, and before making any payment in pursuance or under the authority of such order, instrument in writing, appointment or revocation of appointment, it shall be entitled to receive the original or a true copy thereof.

(2) Nothing in this section shall affect the right of any person entitled to payment by virtue of such order, instrument in writing, appointment or revocation of appointment, to recover from any person to whom payment has been made by the insurer.

PROOF OF CLAIM AND PAYMENT.

Insured entitled to certain proof of claim.

41.—(1) The insurer shall be entitled to reasonably sufficient proof in writing verified by affidavit or statutory declaration of the maturity of the contract, of the age of the person whose life is insured, and of the right of the claimant to receive payment of the insurance-money.

(2) Where the insurance-money or part thereof is payable to or for the benefit of minors, the insurer shall be entitled to reasonably sufficient proof of the names and ages of the minors.

Time and manner for payment of insurance-moneys.

42.—(1) Insurance-money which is expressed to be payable at the maturity of the contract shall be payable thirty days after reasonably sufficient proof has been furnished to the insurer of the maturity of the contract, of the age of the person whose life is insured, and of the right of the claimant to receive payment.

(2) Insurance-money shall be payable in the Province in lawful money of Canada.

Powers of Court—Where sufficiency of proof not admitted by insurer.

43.—(1) Where the insurer does not admit the sufficiency of the proof furnished by the claimant of the maturity of the contract, or of the age of the person whose life is insured, or of the right of the claimant to receive payment of the insurance money, and where there is no other question in issue, except a question under subsection (2), the insurer or the claimant may, before or after action brought, upon at least ten days' notice, apply to the Court for a declaration as to the sufficiency of the proof furnished, and the Court may direct what further evidence of the age of the person whose life is insured shall be furnished, or, in special circumstances, may dispense with further evidence of the age of the person whose life is insured.

(2) Where the claimant alleges that the person whose life is insured is presumed to be dead by reason of his not having been heard of for seven years, and where there is no other question in issue except a question under subsection (1), the insurer may, before or after action brought, upon at least ten days' notice, apply to the Court for a declaration as to the presumption of death.

(3) If the Court finds that the proof of the maturity of the contract or of the age of the person whose life is insured or of the right of the claimant to receive payment is sufficient, or that a presumption of death has been established, or makes an order directing what further evidence of the age of the person whose life is insured shall be furnished or dispensing with further evidence of the age of the person whose life is insured, the finding or order of the Court shall, subject to appeal, be conclusive and binding upon the parties to the application, and the Court may make such order as to the payment of the insurance-money and as to the costs as to it may seem just.

(4) The payment by the insurer in accordance with the order shall discharge it from liability in respect of such payment.

(5) If the Court does not find that the proof of the maturity of the contract, of the age of the person whose life is insured, or of the right of the claimant to receive payment is sufficient, or that the presumption of death is established, the Court may order that the question or questions in issue be decided in an action brought or to be brought, or may make such other order as to it seems just as to further proof to be furnished by the claimant, as to publication of advertisements, as to further inquiry, and as to costs, or otherwise.

(6) Unless otherwise ordered by the Court, the application shall operate as a stay of any pending action with respect to the insurance-money.

44. Where the person whose life is insured and any one or more of the beneficiaries perish in the same disaster, it shall be *prima facie* presumed that the beneficiary or beneficiaries died first.

MISCELLANEOUS.

45.—(1) Subject to the following subsections of this section, any action or proceeding against the insurer for the recovery of insurance-money shall be commenced within one year next after the furnishing of reasonably sufficient proof of the maturity of the contract and of the right of the claimant to receive payment, or within six years next after the maturity of the contract, whichever period shall first expire, but not afterwards.

(2) Where an order has been made declaring that death is presumed from the fact that the person whose life is insured has not been heard of for seven years, an

action or proceeding shall be commenced within one year and six months from the date of the order, but not afterwards.

(3) Where the death of the person whose life is insured is unknown to the person entitled to claim under the contract, an action or proceeding may be commenced within the prescribed period or within one year and six months after the death becomes known to him.

(4) Where an action or proceeding is prematurely brought, the plaintiff may commence a new action or proceeding at any time within the prescribed period or within six months after the final determination of the first action or proceeding.

Appointment
of trustees for
beneficiary by
insured.

46.—(1) The powers conferred upon the insured by this Act with regard to the designation or appointment of a beneficiary or beneficiaries, and the alteration or revocation of such designation or appointment, and the apportionment or reapportionment of insurance-money between or among beneficiaries, shall include power from time to time to appoint a trustee or trustees for any beneficiary or beneficiaries, to revoke such appointment or alter its terms, to appoint a new trustee or trustees, or to make provision for the appointment of a new trustee or trustees.

(2) The appointment of a trustee or trustees for any beneficiary shall not have the effect of taking away from the Court or the insured any power of depriving the beneficiary of the benefit of the insurance-money which the Court or the insured would have under this Act if such beneficiary had been designated as beneficiary without the appointment of a trustee.

(3) Payment made to the trustee or trustees appointed as hereinbefore provided shall discharge the insurer.

Payment of
shares of
persons under
disability.

47.—(1) Where no trustee is appointed to receive the shares to which minors or other persons who are under disability are entitled, or where a trustee is named, but refuses or neglects to act, the shares of such minors or other persons under disability may be paid to a guardian or tutor or trustee of such minors or to a curator, committee, or trustee of such other persons under disability duly appointed under the law of the Province.

(2) Where insurance-money not exceeding two thousand dollars is payable to the husband and children or to the wife and children, or to the children of the person whose life is insured, and one or more of the children are minors, the Court may, if the wife is the mother of such minors, appoint her their guardian, or if the husband is the father of such minors, appoint him their guardian, with or without security, and the insurance-money may be paid to him or her as guardian.

(3) Where it appears that a guardian, tutor, curator, committee, or trustee of minors or other beneficiaries

under disability has been appointed in a foreign jurisdiction, and that the minors or other beneficiaries are resident within that jurisdiction, the Court may authorize payment of the insurance-money to the guardian, tutor, curator, committee, or trustee with or without security in the Province.

48.—(1) Where the insurer admits liability for the insurance-money or any part thereof, and— Payment by insured into Court in certain cases.

(a) there are adverse claimants; or

(b) the place of abode of a person entitled is unknown; or

(c) there is no person capable of giving a valid discharge,—

the insurer may, at any time after the expiration of one month from the maturity of the contract, apply to the Court for an order for payment of the money into Court.

(2) Where the insurer admits liability for the insurance-money or any part thereof payable to a minor, and there is no person capable of giving a valid discharge therefor, the insurer may at any time after the expiration of one month from the maturity of the contract pay such money, less the costs mentioned in subsection (3), into Court to the credit of the minor.

(3) The insurer may retain out of the insurance-money for costs ten dollars if the amount does not exceed one thousand dollars, and fifteen dollars in other cases, and payment of the remainder into Court shall discharge the insurer.

(4) No order shall be necessary for payment into Court under subsection (2), but the accountant or other proper officer shall receive the money upon the insurer filing with him an affidavit showing the amount payable and the name, date of birth, and residence of the minor, and upon such payment being made the insurer shall forthwith notify the Official Guardian and deliver to him a copy of the affidavit.

49. Where the insurer does not within two months after due proof of the claim pay the insurance-money to some person competent to receive the same under this Act or into Court, the Court may, upon application of any person, order that the insurance-money, or any part thereof, be paid into Court or may make such other order as to the distribution of such money as to the Court may seem just, and payment made in accordance with such order shall be a sufficient discharge to the insurer. Power of Court where insurer fails to pay after proof.

50. The Court may order the costs incurred upon or in connection with any application or order made under section 48 or 49 to be paid out of the insurance-money or by the insurer or the applicant or otherwise as may seem just. Costs of proceedings under ss. 48, 49.

Uniform interpretation of Act. **51.** This Act shall be so interpreted and construed as to effect its general purpose of making uniform the law of those Provinces which enact it.

Repeal. **52.** "*The Life Insurance Beneficiaries Act*," being chapter 172 of the Revised Statutes of Alberta, 1922, and section 43 of *The Alberta Insurance Act*, being chapter 171 of the Revised Statutes of Alberta, 1922, are hereby repealed.

Commencement. **53.** This Act shall come into force on a date to be fixed by the Lieutenant Governor by his proclamation.

No. 1.

FOURTH SESSION
FIFTH LEGISLATURE
14 GEORGE V
1924

BILL

An Act to make Uniform the Law
respecting Life Insurance
Contracts.

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. BROWNLEE.

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A.D. 1924