

AUSTRALIAN
MUTUAL PROVIDENT
SOCIETY'S.

An Act to consolidate the enactments relating
to the Australian Mutual Provident Society ;
and to amend the same. [28th July, 1910.]

Preamble.

Act of 1857,
7 Vic. No. 10.

Establishment of
Australian Mutual
Provident Society.

WHEREAS by an Act of the Legislature of the State (formerly Colony) of New South Wales, passed in the seventh year of the reign of Her late Majesty Queen Victoria, and numbered ten, after reciting, amongst other things, that it was desirable to encourage the foundation of friendly societies for the purposes therein mentioned, it was enacted that it should be lawful for any number of persons to form themselves into and to establish a society for the purposes of raising, from time to time, by subscription of the several members of every such society, or by voluntary contributions or donations, funds for the mutual relief or maintenance of the members thereof, their wives, children, relations, or nominees, in sickness, infancy, advanced age, widowhood, or any other natural state or contingency, whereof the occurrence is susceptible of calculation by way of average, or for any other purpose which is not illegal: And whereas, under and in pursuance of the said Act, a certain Society was established, and is still subsisting in the City of Sydney, in the said State, called the Australian Mutual

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Mutual Provident Society, for the purpose of raising funds by the mutual contributions of the members thereof, or otherwise, for assurances on their own lives, or on the lives of other persons; for the assurance of joint lives and survivorships; for the purchasing, granting, and sale of annuities certain or on lives, present, deferred, or reversionary; for the purchasing and granting of endowments, and for the transacting and carrying on of all business dependent on the contingencies of human life: And whereas various other Acts were from time to time passed for the encouragement and regulation of such friendly societies: And whereas one of such Acts, that is to say, an Act of Council passed in the seventeenth year of the reign of Her late Majesty Queen Victoria and numbered twenty-six, repealed the said first-mentioned Act, subject however to its provisions continuing in force as to any such society then established, till it should register its rules in conformity with the Act now in recital: And whereas, by the last-mentioned Act, various privileges were conferred upon any such society not granted by the said first-recited Act, but at the same time so limiting the extent and nature of the business allowed to be carried on by any such society, as to be inconsistent with that then carried on by the said Australian Mutual Provident Society, and which business had since been continually and rapidly increasing, so that the said Society had not complied, and could not comply, with the conditions imposed by the said second Act, so as to obtain the additional privileges thereby conferred: And whereas the members thereof were desirous of having proper and enlarged facilities for carrying on and extending its business and operations; and to effect that purpose, and for the encouragement of frugality and of provident habits, and for promoting the objects of the said Society, it was expedient that the same should be incorporated with, and subject to certain privileges, restrictions, and provisions: And whereas, by an Act of the Legislature of the State (then Colony) of New South Wales, passed in the twentieth year of Her late Majesty Queen Victoria, the said Society was incorporated with and subject to certain privileges and restrictions, which Act (hereinafter called the Principal Act) has since been amended by Acts passed in the thirty-seventh and fifty-first years respectively of Her late Majesty Queen Victoria, and by an Act passed in the third year of His Majesty King Edward VII: And whereas it is expedient to consolidate the said Principal Act and amending Acts and to amend the same: Be it therefore enacted by the King'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. Such and so many persons as are at the commencement of this Act, or at any time thereafter, may become members of the Society, shall (subject to the regulations and provisions hereinafter contained)

Various other Acts, passed for encouraging friendly societies.
17 Vic. No. 26.

Business permitted by 17 Vic. No. 26, too limited for the said Society.

Expedient that the said Society should be incorporated.

Expedient that the Society's Acts be consolidated and amended.

Incorporation of Society.
Act of 1857, s. 1.

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Business of Society. contained) be and continue to be one body corporate, by the name and style of the "Australian Mutual Provident Society"; and by that name may transact, carry on, and continue (subject to the provisions of the by-laws of the Society, hereinafter referred to) in or out of the State of New South Wales, the business for which the Society was established as hereinbefore mentioned, and by that name shall have and continue to have perpetual succession and a common seal, and shall sue and be sued, defend and be defended, in all courts whatsoever, and, except where inconsistent with the provisions of this Act, or of any by-law of the Society, shall have and continue to have power, notwithstanding any statute or law to the contrary, to purchase, take, hold, and enjoy to them and their successors for any estate, term of years, or interest, any houses, buildings, lands, and other hereditaments necessary or expedient for the managing, conducting, and carrying on the concerns, affairs, and business of the Society, with power to build on any such lands buildings for offices in whole or in part for the use of the Society, and to lease, sell, convey, assign, assure, and dispose of such houses, buildings, lands, and other hereditaments as occasion may require.

Act of 1857, s. 11.
Act of 1873, s. 1.

Defines who are the members of the Society.
Act of 1857, s. 3.

Society to be under immediate management of directors.
Act of 1857, s. 4.

Who are to have custody of seal, &c.

2. Every person who has effected, or shall hereafter effect, with the Society, any policy or contract for an assurance, endowment, or annuity, and also (subject to the provisions of this Act and of the by-laws of the Society), the assigns or nominees of such persons shall, so long as he or they respectively shall have an interest in such policy or contract, be a member or members of the Society; and minors may also (subject to any provisions and restrictions contained in the by-laws) be members in like manner: Provided that minors shall not become such members without consent of their parents, masters, or guardians.

3. The general business of the Society shall (subject to the by-laws and to the control of meetings of the Society, convened in pursuance of such by-laws) be under the immediate management and superintendence of a "Board of Directors," and the directors for the time being shall have the custody of the common seal of the Society and the form thereof, and all other matters relating thereto, shall, from time to time, be determined by the board; and the directors present at a board shall have power to use such common seal, for the affairs of the Society, and to affix the same to any deed or document; and, under such seal, either by letter of attorney, or otherwise, to authorise any person or persons to execute, without such seal, policies, deeds, and contracts, and to do all such other things as may be required to be done, on behalf of the Society, in conformity with the provisions of the by-laws and of this Act; and it shall not be necessary to affix the said seal to any policy, or to use it in respect of any of the ordinary business of the Society, or for the appointment of any attorney for the prosecution or defence of any action, suit, or proceeding.

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4. The present directors of the Society, namely, The Honorable Alfred William Meeks, Member of the Legislative Council, Senator The Honorable James Thomas Walker, Benjamin Short, Esquire, The Honorable Reginald James Black, The Honorable Frederick Earle Winchcombe, The Honorable James Burns, Members of the Legislative Council, and Adrian Knox, Esquire, Barrister-at-Law, one of His Majesty's Counsel for the State of New South Wales, shall be the directors, and the present officers thereof shall be the officers of the Society, until they or any of them shall retire or be changed, or shall otherwise cease to be such directors or officers in pursuance of any by-laws of the Society, for the change, election, or appointment of directors or officers.

Present directors and officers to continue till changed under by-laws.
Act of 1857, s. 5.

5. The board may (subject to the provisions of the by-laws) effect with any person a policy or contract for an assurance, endowment, or annuity, which shall not entitle the holder to participate in any of the profits of the Society, or to claim any bonus or other benefit which may arise out of the said profits, and such policy shall be called a "non-participating policy."

Power to issue non-participating policies.
Act of 1873, s. 3.

6. The board may appoint local boards of directors and other necessary officers in such places and with such powers as are or may be provided by the by-laws, or as may from time to time consistently therewith be determined by the board.

Local boards.
Act of 1873, s. 4.

7. The present by-laws of the Society shall be the by-laws of the Society until altered, varied, amended, or repealed in the manner provided in this Act and the by-laws.

By-laws.
Act of 1873, s. 6.

8. It shall be competent for the Society from time to time to alter, vary, amend, and repeal the by-laws and to make new by-laws provided that such by-laws are passed and confirmed in the manner prescribed by this Act, but no by-law shall be made by the Society in opposition to the general scope or true intent and meaning of this Act.

Power to make by-laws.
Act of 1857, s. 9.
Act of 1888, s. 2.

9. Every alteration, variation, amendment, or repeal of any by-law, and every new by-law, shall be first approved of by two-thirds of the votes at a meeting of the Society convened for the purpose, and shall be finally passed by a like majority of votes at another meeting also convened for the purpose.

How to make and alter by-laws.
Act of 1857, s. 9.
Act of 1888, s. 2.

10. A copy of the by-laws, proved to be such by the solemn declaration of the secretary, shall be registered in the office for the registry of deeds, at Sydney, and shall be open at all reasonable times to the public, and new by-laws shall not be in force till so registered.

By-laws to be registered in office for registry of deeds.
Act of 1857, s. 8.

11. The production of the by-laws under the seal of the Society by any officer of the Society, or of the copy of such by-laws registered as aforesaid, or a copy thereof, certified by the officer for the registering of deeds to be a copy, shall be evidence in every court of such by-laws.

Evidence of by-laws.
Act of 1857, s. 10.

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- 12.** At every meeting of the Society votes shall in the first instance be given by show of hands, each member (not being a minor) present in person being reckoned as having one vote only, and in the case of an equality of votes, the chairman shall both on a show of hands and at the ballot have a casting vote in addition to the vote or votes to which he may be entitled as a member. A ballot may be demanded at any meeting on any question (except that of an adjournment of a meeting) by such number of members present in person as may from time to time be provided by the by-laws. If so demanded, the ballot shall be taken and votes be given whether personally or by proxy or attorney in such manner and according to such scale of voting as may from time to time be prescribed by the by-laws. The result of the ballot shall be deemed to be the resolution of the meeting at which the ballot was demanded.
- 13.** The board may (subject to the provisions of the by-laws and of this Act) invest such of the funds and property of the Society as to them shall seem fit in any one or more of the following modes:—
- (a) Upon mortgages of freehold or leasehold property anywhere within the British Dominions, and whether belonging to persons, corporations, or companies.
- (b) In the purchase of or advances on public or Government securities of the United Kingdom, the Commonwealth of Australia, or of any State thereof, the Dominion of New Zealand, or of any State, Colony, or possession of the British Empire, or any stocks, funds, or securities guaranteed by the British Government.
- (c) In advances on the security of policies of assurance, whether of the said Society or any other society, corporation, or company.
- (d) In the purchase of premises or of land on which to build premises in whole or in part for offices for the use of the Society in or out of the State of New South Wales, and in building such premises.
- (e) In the purchase of or at interest upon reversionary interests or life interests in funds or estates.
- (f) In purchasing, or otherwise acquiring equities of redemption, reversions of leaseholds, or any other outstanding interests in respect of any property the subject of a security held by the Society under which default has been made.
- (g) On deposit or current account with the ordinary bankers of the Society or any joint stock bank or banks.
- (h) In repairing, adding to, building upon or otherwise improving the properties, the equities of redemption in which have been or hereafter may be acquired by foreclosure or in any other manner.

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- (i) In advances upon the security of city, municipal, shire, borough, or other rates, tolls or dues, raisable or made chargeable by or under the authority of any Act of the Parliament of the United Kingdom, or of the Commonwealth of Australia, or of any State thereof, or of the Dominion of New Zealand, or of any State, Colony, or possession of the British Empire. Act of 1888, s. 1.
- (j) In the purchase of or advances upon bonds, debentures, mortgages, or other securities of any city, municipality, shire, borough, public commissioners or trust, public body, corporation or company, secured upon any undertakings or works, or upon the rates, tolls, dues, or revenues raisable, leviable, or obtainable therefrom: Provided that the power to carry on or construct such undertakings or works and to issue or give bonds, debentures, mortgages, or other securities in connection therewith has been duly conferred under or by virtue of any Act of the Parliament of the United Kingdom, or of the Commonwealth of Australia, or of any State thereof, or of the Dominion of New Zealand, or of any State, Colony, or possession of the British Empire: Provided further that in the case of a company registered under the Companies Act, such undertaking or works as aforesaid shall have been authorised by some express enactment extending to the company. Act of 1903, s. 1 (2) (a), (b).

14. It shall be lawful for the Society to take and to hold until the same can be advantageously disposed of for the purposes of reimbursement only, any lands, houses, and other real estate which may be taken by the Society in satisfaction, liquidation or discharge of any mortgage or other debt due to the Society, or in security for any debt or liability, and to lease, sell, convey, assign, assure, and dispose of such lands, houses, and other real estate as occasion may require. Act of 1857, s. 11.

15. All acts done at any meeting of the board shall, notwithstanding any defect in the appointment or qualification of any director, be as valid as if every such person had been duly appointed and was qualified to be a director. Informalities in appointment of directors. Act of 1857, s. 13.

16. Within the limits provided by sections four, five, six, and seven of the Life, Fire, and Marine Insurance Act, 1902, which Act is hereby declared to apply to policies and contracts of the Society, no property or interest of any member, or of his personal representatives in any policy or contract made or entered into bona fide for the benefit of such member or his personal representatives, or in the moneys payable under or in respect of such policy or contract (including every sum payable by way of bonus or profit), shall be affected by any general assignment Interest of members not subject to general assignment. Act of 1873, s. 5.

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assignment for the benefit of creditors, or in any other manner except by some act or deed of the holder of such policy, other than such deed of assignment purporting specially to deal with the same, and the property or interest therein of such holder or of his personal representatives.

All property of
Society to be
personal estate.
Act of 1857, s. 15.

17. All the funds, investments, and property for the time being, of the Society, and the estates and interests of the several members therein, and all the profits and advantages thereof shall, as between the members, be deemed personal estate, and be transmissible accordingly.

Society not bound
by trusts.
Act of 1857, s. 16.

18. The Society shall not, unless so far as allowed by its by-laws, be bound in any manner by any trust or equitable interest or demand, affecting any policy or contract granted to, or effected by, any person as the ostensible owner thereof, or be required to take notice of any trust or equitable interest or demand, but the receipt of the person or his representatives, to or by whom such policy or contract shall have been granted or effected, shall, notwithstanding such trust or equitable interest or demand, and notice thereof to the Society, be a valid and conclusive discharge to the Society in respect of any money payable by the Society in respect of such policy or contract, and a transfer thereof, in accordance with any provision in that behalf, shall be binding and conclusive, as far as may concern the Society, against all persons whatever: Provided that nothing herein contained shall affect the power of a court of equity to restrain or direct, as the case may be, the payment of any money payable by the Society in respect of any such policy or contract, or the transfer thereof thereafter, by any person or body other than the Society, as such court may think fit.

Certain sums may
be paid to
representatives of
members without
administration.
Act of 1857, s. 18.

19. It shall be lawful for the board, any statute or law to the contrary notwithstanding, if satisfied that no will was left by a deceased member, and that no letters of administration of the estate of such deceased will be taken out, to pay any sum not exceeding one hundred pounds, together with any sum which may have been added thereto by way of bonus or profit, to the widow or widower of such member, or to or amongst his or her child or children, or other person or persons appearing to the board to be entitled to the said estate, without such letters being taken out.

Service of notice
on Society.
Act of 1857, s. 19.

20. Every summons, or notice, or writ or other proceeding at law or in equity requiring to be served upon the Society, may be served by being left at the office of the Society in Sydney, or given personally to the secretary, or in case there be no secretary then to any director of the Society; and the place where the said office is situate, and the names of the secretary and directors of the Society, shall be registered in the office for the registry of deeds, in like manner as hereinbefore declared respecting the by-laws, and every change in such office, and every

Names of secretary
and directors to be
recorded in the
Registrar-General's
Office.

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every new appointment of secretary or director, shall forthwith be also registered in like manner, and notice thereof given in the Government Gazette.

21. In case a majority of not less than three-fourths of votes present at a meeting of the Society shall resolve that it is expedient to dissolve the Society, the directors shall, as soon as practicable, cause a statement of the proposed mode of appropriation and distribution of the stock and funds of the Society to be made, and to be certified to be an equitable mode by at least one actuary not personally interested in the Society; and another meeting shall then be convened, and if the resolution of the previous meeting be then confirmed by a like majority of votes, the Society shall be dissolved, and its affairs wound up with all convenient speed: And in case by a like majority of votes at a like meeting it be resolved that it is expedient to dispose of the property and business of the Society, or of any branch thereof, or to amalgamate the same with any other society or company, or to purchase the stock and business of any other society or company transacting similar business to that of this Society, the directors shall cause a statement to be made of the effect of such disposal, amalgamation, or purchase, on the interests of the members of this Society (the same to be certified by at least one actuary, not personally interested, either in this Society or in the other society or company as aforesaid), and then cause another meeting to be held for confirming or disallowing the said disposal, amalgamation, or purchase, as the case may be; and if confirmed by the like majority, the same shall be completed with all convenient speed; but in the event of any member who may not have assented to such disposal, amalgamation, or transfer, at the meeting at which the same was confirmed, dissenting therefrom at any time before the date on which his annual premium next after the date of such meeting shall have become due, or if he have no annual premium to pay, then within twelve calendar months after the date of such meeting he shall be entitled to demand from the funds of whatever branch of the said Society he may be a member of, the value of his policy, and the same shall be paid to him accordingly on his surrendering such policy.

Dissolution of
Society.
Act of 1857, s. 20.

Amalgamation, sale,
or transfer of
Society's business.

22. The Acts mentioned in the Schedule to this Act are hereby repealed.

23. This Act shall be intitled the "Australian Mutual Provident Society's Act, 1910."

Bank of New South Wales.

SCHEDULE.

Reference to Act.	Title or short title.	Extent of repeal.
20 Vic. ...	An Act to incorporate the Australian Mutual Provident Society.	The whole Act.
37 Vic. ...	Australian Mutual Provident Society's Act Amendment Act of 1873.	The whole Act.
51 Vic. ...	Australian Mutual Provident Society's Acts Amendment Act of 1888.	The whole Act.
3 Ed. VII ...	Australian Mutual Provident Society's Acts Amendment Act of 1903.	The whole Act.