

# Australian Mutual Provident Society Act 1988

## No 47

[1988-47]



New South Wales

### Status Information

#### Currency of version

Current version for 27 November 2003 to date (accessed 20 May 2024 at 5:17)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

#### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

#### Notes—

- **Note**

Section 26 of the [Australian Mutual Provident Society \(Demutualisation and Reconstruction\) Act 1997 No 56](#) provides for the later repeal of this and other legislation applying to the Society on its registration as a company under the [Corporations Law](#). The text of that section is reproduced as follows:

#### 26 Repeal

After AMP has been registered as a company under Division 3 of Part 2.2 of the [Corporations Law](#), the Governor may, by one or more proclamations, repeal all or any specified provisions of either or both of the following Acts:

- (a) [Australian Mutual Provident Society's Act 1910](#),
- (b) [Australian Mutual Provident Society Act 1988](#).

#### Responsible Minister

- Attorney General

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

#### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Australian Mutual Provident Society Act 1988 No 47



New South Wales

An Act to provide for the application of certain laws to the Australian Mutual Provident Society.

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Australian Mutual Provident Society Act 1988*.

### 2 Commencement

- (1) Sections 1 and 2 commence on the date of assent to this Act.
- (2) Except as provided by subsection (1), this Act commences on a day or days to be appointed by proclamation.
- (3) A proclamation shall not be made under this section unless:
  - (a) AMP has lodged with the Corporate Affairs Commission proposed by-laws that have been approved by the Minister, and
  - (b) the Corporate Affairs Commission has issued a certificate stating that the proposed by-laws have been lodged with it.
- (4) Subject to section 11 (2) of the *Australian Mutual Provident Society (Demutualisation and Reconstruction) Act 1997*, AMP's proposed by-laws shall be divided into:
  - (a) Part 1 which contains only matter of a type appropriate for inclusion in a memorandum of association, and
  - (b) Part 2 which contains only matter of a type appropriate for inclusion in articles of association.
- (5) The Corporate Affairs Commission is required to accept the proposed by-laws lodged in accordance with this section and to issue a certificate for the purposes of this section.

### 3 Definitions

(1) In this Act:

**AMP** means Australian Mutual Provident Society continued as a body corporate by the *Australian Mutual Provident Society's Act 1910*.

**Code** means the *Companies (New South Wales) Code*.

**Code regulations** means the provisions applying as regulations made under the Code because of section 7 of the *Companies (Application of Laws) Act 1981*.

**member** means a member of AMP.

**officer** has the same meaning as it has in the Code.

(2) In this Act, a reference to the Code or the Code regulations is a reference to that Code or those regulations:

(a) as in force on the commencement of section 4, or

(b) if the regulations under this Act so provide, as in force at a later specified time.

## Part 2 Application of Code

### 4 Code to apply generally

(1) Subject to this Act, the Code and the Code regulations apply:

- (a) to AMP as if it were a company that had been duly registered under the name "Australian Mutual Provident Society" and had been duly incorporated, in each case under the Code and on the commencement of this section, and
- (b) to the members and officers of AMP as if they were members and officers, respectively, of such a company.

(2) Part 80 of the Supreme Court Rules applies to AMP and to its members and officers in the same way that the Code and the Code regulations apply under subsection (1).

### 5 Provisions of Code that do not apply

The provisions of the Code that are listed in Schedule 1 do not apply to AMP.

### 6 AMP not a company

Nothing in this Act is to be taken as constituting AMP as a company for the purposes of any law, or previous law, of the State relating to companies.

### 7 Conversion and directors (Code ss 69, 226 (9))

Sections 69 and 226 (9) of the Code apply to AMP as if it were a company limited by

guarantee.

## **8 Rights of classes of members** (Code s 127)

A member shall not be taken to be in a class of members having special rights for the purposes of section 127 of the Code just because the member holds a life insurance policy or other policy, annuity or contract issued by AMP with terms or conditions that differ from the terms or conditions of another life insurance policy or other policy, annuity or contract issued by AMP.

## **9 Annual returns** (Code reg 56A)

The only documents regulation 56A (b) (ii) of the Code regulations requires to accompany an annual return of AMP are those section 52 of the [Life Insurance Act 1945](#) of the Commonwealth requires to be lodged for the relevant financial year.

## **10 By-laws**

- (1) On and from the commencement of section 4, the by-laws of AMP are those by-laws lodged with the Corporate Affairs Commission in accordance with section 2, as altered or added to from time to time in accordance with this section.
- (2) Parts 1 and 2 of the by-laws of AMP:
  - (a) shall, for the purposes of the application of the Code and of the Code regulations to AMP and to its members and officers, be taken to be the memorandum of association and articles of association, respectively, of AMP, and
  - (b) bind AMP, and the persons who are from time to time its members, accordingly.
- (3) The by-laws (including the by-laws as taken to be amended under section 11 (2) of the [Australian Mutual Provident Society \(Demutualisation and Reconstruction\) Act 1997](#)) may be altered or added to only in accordance with the Code and the Code regulations applying to memoranda and articles of association.

## **Part 3 Membership of AMP**

### **11 Membership criteria**

Subject to section 11 (2) and (3) of the [Australian Mutual Provident Society \(Demutualisation and Reconstruction\) Act 1997](#), membership of AMP shall be in accordance with the by-laws of AMP.

### **12 Members' liability**

- (1) Subject to subsection (3), if AMP is wound up:
  - (a) a person is not, as a present or past member, liable to contribute to the property of AMP for the purposes of payment of AMP's debts or liabilities or of the costs,

charges or expenses of the winding up or for the purposes of the adjustment of the rights of such members among themselves, and

(b) the property of AMP alone is liable for those purposes.

(2) In this section:

***past member*** includes a person who ceased to be a member before the commencement of section 4.

(3) Section 360 of the Code applies to every present and past member of AMP who holds or has held shares in AMP.

## Part 4 Miscellaneous

### 13 Regulations

(1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without affecting the generality of subsection (1), the regulations may provide that specified provisions of the Code, or the Code regulations, do not apply to AMP or to its members or officers.

(3) The [Subordinate Legislation Act 1989](#) does not apply to the regulations.

### 14 (Repealed)

### 15 Savings and transitional provisions

Schedule 2 has effect.

## Schedule 1 Provisions that do not apply to AMP

(Section 5)

Sections 35 (6)–(9), 37, 39, 82, 217 (1) and (2), 274 and 360 of the Code.

## Schedule 2 Savings and transitional provisions

(Section 15)

### 1 Definitions

In this Schedule:

***commencement*** means the commencement of section 4.

### 2 Continuing legal entity

Nothing in this Act affects:



- (a) the identity of AMP, or
- (b) its continuation as a body corporate by the *Australian Mutual Provident Society's Act 1910*.

### **3 Old by-laws of no further effect**

The by-laws of AMP, as in force immediately before the commencement, cease to be by-laws of AMP on the commencement.

### **4 Membership of AMP continued**

Any person who was a member immediately before the commencement shall, on the commencement, continue to be a member of AMP, but thereafter the person's membership and the continuance of that membership are subject to the by-laws.

### **5 Directors and other officers**

- (1) Any person who:
  - (a) was appointed a director or other officer of AMP before the commencement, and
  - (b) held that position immediately before the commencement,shall be taken to have been appointed in accordance with the Code and the by-laws of AMP (as in force on the commencement) as if the Code applied to AMP, and the by-laws were in force, at the time of the appointment.
- (2) Any such person shall continue to hold that position subject to:
  - (a) the Code and the Code regulations, and
  - (b) the by-laws of AMP.

### **6 Auditors**

- (1) Any person who:
  - (a) was appointed an auditor of AMP before the commencement, and
  - (b) held that position immediately before the commencement,shall be taken to have been appointed in accordance with the Code and the by-laws of AMP (as in force on the commencement) as if the Code applied to AMP, and the by-laws were in force, at the time of the appointment.
- (2) Any such person shall continue to hold that position subject to:
  - (a) the Code and the Code regulations, and
  - (b) the by-laws of AMP.

## **7 Meetings**

- (1) The last annual meeting held before the commencement under the by-laws of AMP (as in force at the time of that meeting) shall be taken to have been an annual general meeting for the purposes of the Code and the by-laws of AMP as in force on the commencement.
- (2) Any meeting that had been adjourned under the by-laws of AMP (as in force at the time of the adjournment) and not reconvened before the commencement shall be taken to be an adjourned meeting for the purposes of the Code and the by-laws as in force on the commencement.

## **8 Registered office and office hours**

- (1) On, or as soon as practicable after, the commencement, AMP:
  - (a) shall lodge with the Corporate Affairs Commission notice of the proposed registered office of AMP, and
  - (b) may lodge with the Commission notice of the hours (being not less than 3) between 9 am and 5 pm each day (Saturdays, Sundays and holidays excepted) during which the registered office of AMP is to be open and accessible to the public.
- (2) The notices shall:
  - (a) be in the forms prescribed in accordance with the Code for the purposes of section 217 (1) and (2) of the Code, respectively, and
  - (b) comply with section 530A of the Code.
- (3) The Corporate Affairs Commission is authorised to accept notices lodged under this clause.