

An Act to incorporate “The Australian Mutual
 Provident Society.” [18th March, 1857.]

AUSTRALIAN MUTUAL
 PROVIDENT SOCIETY.

WHEREAS by an Act of the Legislature of the Colony of New South Wales passed in the seventh year of the reign of Her 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 for the members of any such society from time to time to make ordain and constitute proper and wholesome rules for the better government of the same and also from time to time to alter and amend or to annul or repeal the same as therein mentioned but that no such rules should be binding on the several members and officers of the said society or other persons having any interest in such society until certified either by the Attorney General or by a barrister-at-law and confirmed by Justices of the Peace as therein mentioned and afterwards filed by the Clerk of the Peace for the county wherein such society should be founded with the rolls of the Sessions of the Peace And whereas by the said Act certain privileges and restrictions are enacted and provided for the benefit and regulation of such societies 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 Colony called “The Australian 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

Preamble.
 7 Vict. No. 10.

Establishment of
 Australian Mutual
 Provident Society.

Australian Mutual Provident Society.

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 after the establishment of the said society certain rules were made for its management which rules were duly certified and confirmed and were filed with the rolls of the Sessions of the Peace for the district of Sydney in pursuance of the provisions of the said Act And whereas the said rules provide for the general management of the affairs of the said society by certain directors as in the said rules mentioned And whereas various other Acts have from time to time been 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 said Majesty and numbered twenty-six repeals 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 are 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 and now carried on by the said Australian Mutual Provident Society and which business has since been continually and rapidly increasing so that the said society has not complied and cannot comply with the conditions imposed by the said second Act so as to obtain the additional privileges thereby conferred And whereas the members thereof are 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 is expedient that the same should be incorporated with and subject to the privileges restrictions and provisions hereinafter contained Be it therefore 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—

17 Vic. No. 26.

Business permitted
thereby too limited
for the said society.Incorporation of
society.

1. Such and so many persons as are now or at any time hereafter shall in accordance with the provisions of this Act become members of the said society shall (subject to the regulations and provisions hereinafter contained) 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 said society hereinafter referred to) in or out of the Colony of New South Wales the business for which the said society was established as hereinbefore mentioned and by that name shall 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 power after the passing of this Act 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 said corporation and to sell convey assign assure and dispose of such houses buildings lands and other hereditaments as occasion may require.

Act not to prejudice
anything already
done.

2. This Act shall not prejudice any contract entered into by the society before this Act shall have come into operation but the same contract shall be as valid to all intents and purposes as if this

Act

Australian Mutual Provident Society.

Act had not been passed and may be enforced in like manner as if the said society had been incorporated before such contract was entered into.

3. Every person who has effected or shall hereafter effect with the said society any policy or contract for an assurance endowment or annuity and also (subject to the provisions of this Act and of any by-laws to be made by the society) the assigns or nominees of such person 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 now incorporated and minors and married women as if single may also (subject to any provisions and restrictions contained in such by-laws) be members in like manner and the policies held by such married women shall not be subject to the debts or control of their husbands and may be disposed of by them by will. Provided that minors shall not become such members without consent of their parents masters or guardians. And provided that no policy for a life assurance or endowment held by any married woman shall be protected against the debts of her husband unless it shall have endured for two years and then only to the extent of two hundred pounds if for five years then to the extent of five hundred pounds if for seven years then to the extent of one thousand pounds and if for ten years then to the extent of two thousand pounds. Provided further that no annuity shall be so protected as aforesaid unless the payments made on account thereof shall have been made at annual or more frequent intervals during a period of not less than six years or unless purchased more than six years prior to the commencement of the annuity and such annuity shall not exceed the sum of one hundred and four pounds per annum.

Defines who are the members of the society.

4. The general business of the society shall (subject to the by-laws herein referred to 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 authorize 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 said 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.

Society to be under immediate management of directors.

Who are to have custody of seal &c.

5. The present directors of the said society namely Michael Egan Murnin Frederick Ebsworth William Harvie Christie James Mitchell Arthur Todd Holroyd and John Fairfax Esquires 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.

6. Until the passing and registration of the by-laws of the society to be made passed and registered in the manner hereinafter mentioned the present rules of the said society now in force and filed with the rolls of the Sessions for the district of Sydney shall be the by-laws of the society except so far as any of them are inconsistent with any of the provisions of this Act.

Present rules to be by-laws until fresh by-laws made.

Australian Mutual Provident Society.

By-laws to be approved by society within six weeks after passing of this Act

7. Within six weeks after the passing of this Act the board shall convene by not less than three weeks notice by advertisement in at least three consecutive numbers of two or more of the Sydney newspapers a meeting of the society and shall submit for the approval of such meeting the by-laws proposed for the future conduct of the affairs of the society in which by-laws provision shall be made respecting the following matters that is to say the number change retirement election and appointment of directors auditors and other officers the meetings of the society the investment of its funds the division and appropriation of profits amongst the members the mode of altering or repealing the by-laws and of making others and generally the efficient management of the affairs and business of the society and at such meeting or at some adjournment thereof the by-laws shall be approved of by not less than two-thirds of the votes given by voices at such meeting each member present in person or by proxy being reckoned as having one vote only unless three members personally present shall require the voting to be according to the following scale that is to say every member whose life is assured for or who contributes for an endowment of one hundred pounds having one vote and every additional one hundred pounds giving an additional vote every member subscribing for or receiving an annuity of five pounds having one vote and every additional five pounds of annuity giving another vote but no member shall be entitled to more than twenty votes in all and no minor shall be entitled to a vote and any member may by a writing signed by himself appoint any other member as his proxy to vote on his behalf at such meeting or at any adjournment thereof and thereupon within five weeks and after the expiration of two weeks another meeting shall be convened for the purpose of confirming and finally passing such by-laws but which shall not be so passed except by the like majority of votes as aforesaid and upon such by-laws being so finally passed the same shall be deemed and considered to be and shall be the by-laws for the time being of the said society save and except in so far as any of them are or shall or may be altered varied or repealed by or are or shall or may be inconsistent or incompatible with or repugnant to any of the provisions of this Act.

and confirmed within five weeks thereafter.

By-laws to be registered in office for registry of deeds.

8. A copy of the said 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 the said by-laws shall not be in force till so registered.

Powers to alter and repeal by-laws.

9. The by-laws of the society or any of them may from time to time be altered or repealed and new by-laws may be made in accordance with any provision in the then existing by-laws Provided that every alteration 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 (the votes at every such meeting being taken according to the method prescribed in the seventh section of this Act) but no by-law shall be made by the said society in opposition to the general scope or true intent and meaning of this Act.

Evidence of by-laws.

10. 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.

Investment of funds.

11. 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 either in the security of mortgages on real

or

Australian Mutual Provident Society.

or leasehold estates or in Government securities or in loans to members on their policies or in the building of offices and premises for the use of the society. And it shall be lawful for the said 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 so taken by the said 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 sell convey assign assure and dispose of such lands houses and other real estate as occasion may require.

12. The business of the society may be divided into branches to be declared in its by-laws and the funds of one branch shall not be used in liquidating any claim on any other and no member shall be individually liable to make good any deficiency whatever which may arise in its funds and the profits of the business of each branch shall be periodically divided among the members interested therein in the manner declared in the by-laws. Separate branches of business.

13. 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.

14. The property and interest of every member or of his personal representatives in any policy or contract made or entered into *boná 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 exempt from liability to any law now or hereafter in force relating to bankruptcy or insolvency or to be seized or levied upon by the process of any Court whatever. Provided that no policy or contract for a life assurance or endowment shall be so protected nor any contributions made towards the same until it shall have endured for at least two years but that after an endurance of two years such protection shall be afforded to the extent of two hundred pounds of assurance or endowment and to the contributions made towards the same and after an endurance of five years to the extent of five hundred pounds and after an endurance of seven years to the extent of one thousand pounds and after an endurance of ten years to the extent of two thousand pounds. And that no policy for providing an annuity nor the contributions made towards the same shall be protected until the payments made on behalf of such annuity shall have extended over a period of six or more years or unless it shall have been purchased at a date more than six years prior to the commencement of the annuity and that such annuity shall not exceed the sum of one hundred and four pounds per annum. Provided also that the protection hereby afforded shall in the case of an annuity accrue only to the benefit of the member himself and only to such part thereof as shall be payable after he shall have attained the age of fifty years and in the case of an endowment for the benefit of the nominee only and in the case of a life assurance for the benefit of the personal representatives only of the member and in no case for any assignee of the member. Interest of members how far not subject to bankrupt laws. Life assurances endowments. Annuities.

15. 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. All property of society to be personal estate.

16. 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 Society not bound by trusts.

Australian Mutual Provident Society.

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.

Property at present in trustees to become vested in society.

17. All the mortgaged and other lands securities covenants debts moneys choses in action and things at present vested in the trustees of the present Australian Mutual Provident Society or any other person or persons on behalf of the said society shall immediately after the passing of this Act become vested in the society hereby incorporated for the same estate and interest and with the like powers and authorities as the same are now vested in the said trustees or other person or persons without any assignment or conveyance whatsoever.

Certain sums may be paid to representatives of members without administration.

18. It shall be lawful for the board if satisfied that no will was left by a deceased member and that no letters of administration of the goods 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 effects of the deceased without such letters being taken out.

Service of notice on society.

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

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

Dissolution of society.

20. 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

Amalgamation sale or transfer of society's business.

or

Richmond Bridge Company.

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.
