

AUSTRALIAN MUTUAL PROVIDENT SOCIETY'S (AMENDMENT) ACT.

An Act to amend the Australian Mutual Provident Society's Act, 1910, in the following respects:—(a) to extend the powers and objects of the said Society and the powers of its Board of Directors; (b) to amend the definition of members of the said Society; and to amend sections one, two, six, thirteen, fifteen, eighteen and nineteen of the said Act; (c) to extend the powers of the Society and its Directors in paying claims; (d) to provide for evidence of meetings of members of the Society, of the Board and of Branch or Local Boards of the said Society; (e) to enact provisions as to the ownership of policies vested in trustees or granted on the lives of minors; (f) to enable minors to deal with their policies; (g) to enact provisions with respect to mortgages and charges of policies; (h) to repeal sections four, fourteen and sixteen of the Australian Mutual Provident Society's Act, 1910. [Assented to, 4th April, 1941.]

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WHEREAS the Australian Mutual Provident Society (hereinafter called "the Society") was established in or about the year 1849: And whereas by an Act of the Legislature of the State (then Colony) of New South Wales passed in the twentieth year of the reign of Her late Majesty Queen Victoria the Society was incorporated which Act was amended by Acts passed in the thirty-seventh and fifty-first years of the reign of Her late Majesty

Preamble.

Incorporation of Society.

Amendments of Incorporating Act.

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Consoli-
dating Act
of 1910.

Expedient
that Act of
1910 be
amended.

Citation.

Amendment
of Act of
1910.

Majesty Queen Victoria and by an Act passed in the third year of the reign of His late Majesty King Edward VII: And whereas by an Act of the Legislature of the State of New South Wales intituled the "Australian Mutual Provident Society's Act, 1910" passed in the first year of the reign of His late Majesty King George V the Acts relating to the said Society were consolidated and amended: And whereas the business carried on by the Society and the business carried on by other corporations engaged in the business of life assurance has increased since, and is now of a more varied nature than that carried on at the time of the passing of the said last-mentioned Act: And whereas it is desirable in the interest of present and future members of the Society to extend the powers and objects of the said Society and the powers of its Board of Directors in regard to the corporate acts which the Society may lawfully do, the business which it may carry on, the investment of its funds and the payment of claims: And whereas it is also expedient to amend the definition of members of the Society to provide for evidence of meetings of members of the Society, of the Board and of Branch or Local Boards of the Society, to enact provisions as to the ownership and validity of certain policies and to enable minors to deal with policies: And whereas it is expedient that the said Act should be amended in the manner hereinafter appearing: 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. (1) This Act shall be read and construed with the Australian Mutual Provident Society's Act, 1910, which Act is in this Act referred to as "the principal Act."

(2) The principal Act as amended by this Act may be cited as the "Australian Mutual Provident Society's Act, 1910-1941."

2. The principal Act is amended by inserting in section one thereof after the words "as hereinbefore mentioned" the words "and also that which it is hereinafter empowered to carry on."

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3. The principal Act is further amended by inserting next after section one the following new section:—

Further
amendment
of Act of
1910.

1A. The Society may carry on in or out of New South Wales any business in furtherance of the following objects:—

Extension
of Society's
objects and
powers.

- (a) To grant all such assurances and endowments with or without the right to participate in the surplus or profits of the Society for the payment of money on a future date certain or ascertainable or on the happening of the contingency of death, survival, marriage, birth, failure of issue, sickness, injury, accident, resignation or retirement or of any other event connected with human life and to grant all such annuities as may by law be granted and as the Society may think fit to grant.
- (b) To re-assure the whole or such part of all or any of the risks of the Society and undertake such authorised risks by way of re-assurance as the Society may from time to time think fit.
- (c) To purchase and deal in and lend money on life reversionary and other interests in property of all kinds whether absolute or contingent or expectant and whether determinable or not and to acquire, lend money on, vary, redeem, cancel or extinguish by purchase surrender or otherwise any policy annuity security grant or contract issued made or taken over or entered into by the Society.
- (d) To purchase take on lease or in exchange hire or otherwise acquire any real or personal property which the Society may think necessary or convenient or capable of being profitably dealt with in connection with any of the property business or rights for the time being of the Society.
- (e) To improve build upon manage develop enfranchise lease mortgage charge sell dispose

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dispose of turn to account or otherwise deal with all or any part of the property or rights of the Society.

- (f) To underwrite or guarantee the subscription of any stocks funds shares debentures mortgages or securities authorised by the by-laws for the time being of the Society for the investment of the Society's funds and to subscribe for the same conditionally or otherwise or to act as agents for the issue of the same.
- (g) To raise or borrow such moneys as may be necessary for the purposes of the Society in the ordinary course of its business and to secure the repayment thereof upon such terms as may be arranged and to accept money on deposit for such period and on such terms and conditions as the Society may think fit.
- (h) To pay satisfy or compromise any claims made against the Society which the Society may deem it expedient to pay satisfy or compromise notwithstanding that such claims may not be valid in law.
- (i) To do all or any of the things mentioned in this section in any part of the world and either as principal agent trustee contractor or otherwise and either alone or in conjunction with others and either by or through agents sub-contractors trustees or otherwise.
- (j) To promote the enactment of an Act of the Legislature in any part of the world for enabling the Society to carry any of its objects into effect or for effecting any alteration of the Society's constitution or for any other purpose which may seem expedient and to oppose any applications which may seem calculated to prejudice the Society's interests.

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- (k) To do all such other things as may be incidental or conducive to the attainment of the objects and powers of the Society or any of them.
- (l) To carry on any other business of a like nature to that hereinbefore mentioned which under the then existing circumstances may conveniently or advantageously be combined with the business of the Society.

4. The principal Act is further amended—

- (a) by omitting section two and inserting in lieu thereof the following new section:—

Further
amendment
of Act of
1910.

2. (1) Every person who has effected or shall hereafter effect with the Society any policy or contract for an assurance endowment or annuity shall be a member of the Society and, except as hereinafter provided, shall continue to be a member in respect of such policy or contract until such policy or contract be by payment or surrender or otherwise discharged. In the event of the interest of any member in any such policy or contract being assigned (whether by operation of law or otherwise) the assignee may, if the by-laws so provide, and subject to the provisions thereof be the member in respect of such policy or contract in lieu of the assignor or other the person whose interest has been assigned. Minors may (subject to any provisions or restrictions contained in this Act or the by-laws) be members.

Definition
of members
of Society.

(2) In this section the word "person" includes a corporation.

- (b) by inserting in section six after the word "appoint" the words "Branch or";
- (c) by omitting section thirteen and inserting in lieu thereof the following new section:—

13. The Board may invest such of the funds and property of the Society as to them shall seem fit in any one or more of the investments authorised by this Act or by the by-laws for the time

Investment
of Society's
funds.

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time being of the Society with full power to continue or vary any such investments whenever the Board shall think fit.

- (d) by inserting in section fifteen after the word "Board" the words "or of any Branch or Local Board."

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amendment
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1910.

5. The principal Act is further amended—

- (a) by inserting in section eighteen after the words "effected by" the words "or assigned to";
- (b) by omitting from section eighteen the words "or his representatives";
- (c) by inserting in section eighteen after the words "shall have been granted or effected" the words "or his personal representatives or assignees";
- (d) by inserting next after section eighteen the following new section:—

Recognition
of new
trustees as
members on
their ap-
pointment.

18A. Notwithstanding the provisions of sections two and eighteen, whenever it is proved to the satisfaction of the Society that a policy has been issued or transferred to any person as trustee and that under the provisions of the trust affecting the same new trustees may be appointed either in addition to or in place of the trustees for the time being or a person may cease to be a trustee in his lifetime otherwise than by deed, it shall be lawful for but not obligatory on the Society at the request in writing of the persons claiming to be the then trustees of such policy, and on the evidence of a statutory declaration made by one of such persons that the persons so claiming are the then trustees of such policy and have been duly appointed as such, to recognise that such policy is vested in the persons so applying who shall thereupon become members of the Society and shall be entitled at law to the said policy to the exclusion of the former holders thereof.

- (e) by inserting in section nineteen after the words "if satisfied" the words "that any document produced to the Society is the last will of a deceased member or";

(f)

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- (f) by inserting in section nineteen after the words "that no will was left by a deceased member and that no" the words "probate of any will or";
- (g) by inserting in section nineteen after the words "bonus or profit to" the words "the person named as executor in such will or to";
- (h) by inserting in section nineteen after the words "without such" the words "probate being granted or such."

6. The principal Act is further amended by inserting after section twenty-two the following new sections:—

Further
amendment
of Act of
1910.

22a. Minutes of all proceedings of general meetings or of all proceedings of meetings of directors of the Society or of any Branch or Local Board kept in accordance with the by-laws and purporting to be signed by the Chairman of the meeting at which the proceedings were had, or by the Chairman of the next succeeding meeting, shall be evidence of such proceedings and that the meeting was duly held and that the persons recorded as being present thereat were so present and that all proceedings thereat were duly had.

Evidence of
meetings
and of pro-
ceedings
thereat.

22b. (1) This section shall apply to every policy granted by the Society to any person on the life of a child under the age of twenty-one years whether before or after the commencement of the Australian Mutual Provident Society's (Amendment) Act, 1941, where the policy provides that after a specified date the life assured shall be beneficially entitled to the policy and entitled to be regarded as a member of the Society in respect thereof.

Policies on
the lives of
children.

(2) Every such policy shall unless and until the child survives until such specified date be the absolute property both in law and in equity of the person effecting the same And the person effecting the same or his assigns shall unless and until the child survives until such specified date be competent and in the case of policies effected before the commencement of the Australian Mutual Provident

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Society's (Amendment) Act, 1941, be deemed to have been competent to alienate mortgage charge surrender vary or otherwise deal with the policy in any way whatever.

(3) Where the child whose life has been or shall be assured by any such policy has prior to the commencement of the Australian Mutual Provident Society's (Amendment) Act, 1941, survived or shall after such commencement survive until the specified date, such policy shall be deemed to have been or be (as the case may be) such child's absolute property both in law and in equity subject however—

- (a) to any lien thereon of the Society for premiums interest or other moneys; and
- (b) to any dealing done prior to the specified date by the person who has effected or shall effect the policy; and
- (c) in cases where the person who has effected such policy has dealt therewith prior to such commencement, to any such dealing.

(4) On the death of the person effecting the policy during the child's lifetime and before the specified date the executors or administrators of the person effecting the policy shall subject to any dealings other than testamentary by the person effecting the policy hold the policy upon trust for such child contingently upon him surviving until such date and shall have power at their discretion to alienate mortgage charge surrender vary or otherwise deal with the policy and apply the proceeds thereof as they shall think fit for the maintenance or benefit of such child, but the Society shall be under no obligation to see to the application of any such proceeds.

(5) Nothing in this section shall invalidate any payment made before the commencement of the Australian Mutual Provident Society's (Amendment) Act, 1941, that would have been valid if that Act had not been passed.

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22c. No mortgage or charge to the Society (whether by assignment or otherwise and whether made before or after the commencement of the Australian Mutual Provident Society's (Amendment) Act, 1941) of any policy granted by the Society to secure any moneys owing to the Society shall be deemed to extinguish any obligation of the Society for payment of the sum assured under the policy, but the said policy and any such mortgage or charge shall according to their respective terms have full force and effect.

Mortgage or charge of policy to Society not to extinguish obligation of Society to pay.

22d. Every member of the Society under the age of twenty-one years and of or over the age of sixteen years may with the consent of his parents or either of them or, in the event of such member proving to the satisfaction of the Society that he has no parent resident in Australia able and willing to give such consent, then with the consent of the Public Trustee vary his policy, or surrender or mortgage it to the Society as if he were of full age provided that the Society shall in no case be bound to agree to such variation, surrender or mortgage.

Variation, surrender or mortgage by minors of their policies.

7. Sections four, fourteen and sixteen of the principal Act are hereby repealed.

Repeal of secs. 4, 14, & 16 of Act of 1910.

8. The directors may, out of the funds of the Society, pay the costs of and incidental to the preparation of this Act and its submission to Parliament.

Costs.

9. This Act shall be intituled the "Australian Mutual Provident Society's (Amendment) Act, 1941."

Short title.

