

# AUSTRALIAN CAPITAL TERRITORY.

No. 6 of 1945.

## AN ORDINANCE

**To repeal the Australian Mutual Provident Society's Act, 1910, of the State of New South Wales, in its application to the Territory and to regulate the business of the Society within the Territory.**

**B**E it ordained by the Governor-General in and over the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909-1938* and the *Seat of Government (Administration) Act 1910-1940*, as follows:—

1. This Ordinance may be cited as the *Australian Mutual Provident Society Ordinance 1945*.<sup>\* Citation.</sup>

2.—(1.) The Australian Mutual Provident Society's Act 1910, of the State of New South Wales, in its application to the Territory (hereinafter referred to as "the repealed Act") is repealed. <sup>Repeal of State Act in its application to the Territory.</sup>

(2.) Notwithstanding such repeal, the Society may, subject to the provisions of this Ordinance, carry on in the Territory, in such manner as is not unlawful in the Territory, such business as it is authorized to carry on in the State of New South Wales, by virtue of the Australian Mutual Provident Society's Act, 1910-1941 of that State, and by the By-laws.

3. In this Ordinance unless the contrary intention appears— <sup>Definitions.</sup>

"the Board" means the Board of Directors referred to in section three of the repealed Act;

"the By-laws" mean the By-laws of the Society for the time being in force.

"the Society" means the Society incorporated under the laws of the State of New South Wales, by the name and style of the "Australian Mutual Provident Society".

4.—(1.) Every person who has effected or effects with the Society a policy or contract for an assurance, endowment or annuity, shall be a member of the Society and, subject to this Ordinance, shall continue to be a member in respect of that policy or contract until that policy or contract is discharged by payment, surrender or otherwise. <sup>Membership of the Society.</sup>

(2.) 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 that policy or contract in lieu of the assignor or other person whose interest has been assigned.

\* Notified in the *Commonwealth Gazette* on 11th May, 1945.

(3.) A person under the age of twenty-one years may, subject to any provisions or restrictions contained in this Ordinance or the By-laws, be a member.

Copy of the By-laws to be registered at Companies Registry.

5. A copy of the By-laws, verified by the solemn declaration of the Secretary of the Society, shall be registered in the office of the Registrar of Companies in the Territory and shall be open at all reasonable times to the public, and new By-laws shall not be in force until a true copy of them is so verified and registered.

Evidence of the By-laws.

6. The production, by an officer of the Society, of—

- (a) the By-laws under the seal of the Society; or
- (b) the copy of the By-laws verified and registered in the manner provided by section five of this Ordinance; or
- (c) a copy of the copy referred to in the last preceding paragraph of this section,

shall, in every court, be evidence of the By-laws.

Society not bound by trusts affecting policies.

7.—(1.) Except in so far as permitted by the By-laws, the Society shall not—

- (a) be bound in any manner by any trust or equitable interest or demand, affecting any policy or contract granted to, or effected by or assigned to, any person as the ostensible owner of the policy or contract; or
- (b) be required to take notice of any trust or equitable interest or demand.

(2.) The receipt of the person to or by whom the policy or contract shall have been granted or effected, or of his personal representative or assignee, shall, notwithstanding the trust or equitable interest or demand and notice to the Society of the trust, interest or demand, be a valid and conclusive discharge to the Society in respect of any money payable by the Society in respect of the policy or contract.

(3.) Any transfer of the policy or contract in accordance with any provision in that behalf shall be binding and conclusive as far as concerns the Society against all persons whatever:

Provided that nothing in this section shall affect the power of any court of competent jurisdiction to restrain or direct, as the case may be, the payment of any money payable by the Society in respect of the policy or contract, or the transfer thereof, by any person or body other than the Society, as such court thinks fit.

Recognition of transfer of policies to new trustees.

8. Notwithstanding anything contained in sections four and seven of this Ordinance, whenever the Society is satisfied that a policy has been issued or transferred to any person as trustee and that under the provisions of the trust affecting the policy—

- (a) new trustees may be appointed either in addition to or in place of the trustees for the time being; or

(b) 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—

- (i) on the application in writing of the persons claiming to be the then trustees of the policy; and
- (ii) on the evidence of a statutory declaration by one of those persons that they are the then trustees of the policy duly appointed,

to recognize that the policy is vested in the persons so applying who shall thereupon become members of the Society and shall be entitled at law to the policy to the exclusion of the former holders thereof.

9. If the Board is satisfied that any document produced to the Society is the last will of a deceased member or that no will was left by a deceased member, and that no probate of any will or letters of administration of the estate of that deceased member will be taken out, it shall be lawful for the Board, notwithstanding any law to the contrary, to pay any sum not exceeding One hundred pounds, together with any sum which has been added thereto by way of bonus or profit, to the person named as executor in the will or to the widow or widower of a member or to or amongst his or her child or children, or to some other person or persons appearing to the Board to be entitled to the estate of the member, without probate of the will being granted or letters of administration of the estate being taken out.

Payments under policies without probate being granted or letters of administration taken out.

10.—(1.) Every summons, notice, writ or other proceeding requiring to be served on the Society in the Territory may be served by being left at the office of the Society in the Territory or being given personally to the officer of the Society in charge of that office.

Service of notice on Society.

(2.) The officer of the Society in charge of the office of the Society in the Territory shall make, and file with the Registrar of Companies, a statutory declaration setting out the place where the office is situated and, whenever there is any change in the place where that office is situated, he shall make, and file with the Registrar of Companies, a statutory declaration setting out that change.

(3.) It shall not be necessary for the Society to be registered under section seven of the Companies (Amendment) Act 1906, of the State of New South Wales, in its application to the Territory.

11. Minutes of all proceedings of any branch or local board established or appointed in the Territory kept in accordance with the By-laws and purporting to be signed by the Chairman of the

Evidence of meetings and proceedings thereat.

meeting at which the proceedings were had, or by the Chairman of the next succeeding meeting, shall be evidence of those proceedings and that—

- (a) the meeting was duly held;
- (b) the persons recorded as being present thereat were so present; and
- (c) all proceedings thereat duly had.

Policies on  
lives of  
children.

12.—(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 this Ordinance, in any case where the policy provides that after a specified date the life assured shall be beneficially entitled to the policy and entitled to be regarded in respect of the policy, as a member of the Society.

(2.) Every such policy shall, unless and until the child survives until the specified date, be the absolute property, both at law and in equity, of the person effecting the policy and that person or his assigns shall, unless and until the child survives until the specified date, be competent (and, in the case of a policy effected before the commencement of this Ordinance 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 is assured by any such policy has, prior to the commencement of this Ordinance survived or survives until the specified date, the policy shall be deemed to have been or to be (as the case may be) the child's absolute property, both at law and in equity, subject—

- (a) to any lien thereon of the Society for premiums, interest or other moneys; and
- (b) to any dealing (by the person who effected or effects, as the case may be, the policy) prior to—
  - (i) the specified date; or
  - (ii) the commencement of this Ordinance.

(4.) On the death of the person effecting the policy during the child's lifetime and before the specified date, the personal representatives of that person shall, subject to any dealings (except dealings contrary to the By-laws) by the person effecting the policy—

- (a) hold the policy on trust for the child, contingently on his surviving until the specified date; and
- (b) have power—
  - (i) in their absolute discretion, to deal with the policy either by alienating, mortgaging, charging, surrendering or varying it, or otherwise; and

- (ii) as they think fit, to apply the proceeds of any such dealing for the maintenance or benefit of the child:

Provided 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 this Ordinance which would have been valid if this Ordinance had not been made.

**13.** No mortgage or charge to the Society (whether by assignment or otherwise and whether made before or after the commencement of this Ordinance) 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 policy and any such mortgage or charge shall have full force and effect according to their respective terms.

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

**14.**—(1.) 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 of either of them, or, in the event of the member satisfying the Society that he has not a parent resident in Australia able and willing to give consent, then with the consent of the Attorney-General, vary his policy or surrender or mortgage it to the Society as if he were of full age.

Variation, surrender or mortgage by minors of their policies.

(2.) The Society shall not be bound to agree to any such variation, surrender or mortgage.

Dated this second day of May, 1945.

HENRY

Governor-General.

By His Royal Highness's Command,

JOHN A. BEASLEY

for and on behalf of the Minister of  
State for the Interior.