Reprint

as at 7 March 2012

Mutual Insurance Act 1955

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Mutual Insurance Act 1955: repealed, on 7 March 2012, by section 240(c) of the Insurance (Prudential Supervision) Act 2010 (2010 No 111).

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Note
Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

This Act is administered in the Ministry of Commerce.

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An Act to consolidate and amend certain enactments of the General Assembly relating to mutual insurance associations

1 Short Title

This Act may be cited as the Mutual Insurance Act 1955.

2 Interpretation

In this Act, unless the context otherwise requires,—

agriculture means the cultivation of the soil for the production of food products and other useful products of the soil; and includes the use of land for horticultural or pastoral purposes, or for the keeping of pigs, bees, or poultry

association means one of the mutual insurance associations specified in Schedule 1 to this Act, or a mutual insurance association incorporated under this Act

board, in relation to any association, means the Board of Directors of that association

city or borough includes that part of the district of a district council that before the constitution of the district was or formed part of a city or borough

City or borough: this definition was inserted, as from 1 April 1980, by section 8(3) Local Government Amendment Act 1979 (1979 No 59).

farm means an area of not less than 5 acres of land which is in the occupation of one person or of more than one person jointly or as tenants in common and is used exclusively or principally for the purposes of agriculture

financial year means a period of 12 months ending with the 31st day of March

fully detached building means—

(a) a building the exterior walls of which are constructed principally of brick, concrete, stone, or other fire resistant material, and which is situated at a distance of not less than 10 feet from the nearest other building not owned by the same owner; or

(b) any other building situated at a distance of not less than 30 feet from the nearest other building not owned by the same owner

isolated property means property which is situated on a farm or which is a fully detached building not situated in a city or borough or which is usually kept in a fully detached building not situated in a city or borough; and includes the buildings, and property that is usually kept therein machinery, and plant

of any co-operative dairy company registered as such under the Co-operative Dairy Companies Act 1949

Isolated property: this definition was amended, as from 21 October 1982, by section 2 Mutual Insurance Amendment Act 1982 (1982 No 30) by inserting the words "and property that is usually kept therein".

Life insurance includes endowment and annuity contracts

member, in relation to any association, means a person whose name is for the time being entered in the association's register of members in accordance with section 9 of this Act

Minister means the Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

Minister: the original definition was substituted, as from 25 November 1977, by section 2 of the Mutual Insurance Amendment Act 1977 (1977 No 74).

Minister: this definition was substituted, as from 1 October 1995, by section 10(3) Department of Justice (Restructuring) Act 1995 (1995 No 39).

personal accident insurance means insurance of a member of an association in respect of any accident which may happen to him, or any disease, disability, or change of physical or mental condition which he may contract or suffer

premium note means an undertaking in the form set out in Schedule 2 to this Act

Registrar means the Registrar of Companies; and, in relation to any association or proposed association, includes the Assistant Registrar of Companies for the district within which the principal place of business of the association is or will be situated

subscriber, in relation to any association or proposed association, means a person who has subscribed the declaration specified in paragraph (a) of subsection (1) of section 4 of this Act in connection with the formation of the association

territorial authority means a territorial authority within the meaning of the Local Government Act 2002.

Territorial authority: this definition was inserted, as from 1 April 1980, by section 8(3) Local Government Amendment Act 1979 (1979 No 59).

Territorial authority: this definition was substituted, as from 1 July 2003, by section 262 Local Government Act 2002 (2002 No 84). *See* sections 273 to 314 of that Act as to the savings and transitional provisions.

Constitution of associations

3 Qualification for membership of association

(1) The persons eligible for membership of an association shall comprise:

(a) any owner or occupier of any farm:

(b) any owner or occupier of any isolated property:

(c) any co-operative dairy company registered as such under the Co-operative Dairy Companies Act 1949:

(d) any employee of any such co-operative dairy company:

(e) any body corporate or other organisation the principal object of which is to foster the social or economic welfare of persons living on farms or outside the boundaries of cities and boroughs:

(f) any employee of any such body corporate or other organisation:

(g) the wife, husband, civil union partner, or de facto partner of any member of the association and the widow, widower, surviving civil union partner, or surviving de facto partner of any person who was a member of the association at his or her death.

(2) For the purposes of this section the principal object of a body corporate or organisation means the principal business or activity for the time being carried on by the body corporate or organisation, notwithstanding that it may have authority to carry on any other activity or business.

(3) Subject to the provisions of section 10 of this Act, a person who has duly become a member of an association, whether before or after the commencement of this Act, may continue to be a member thereof notwithstanding that he has subsequently ceased to be eligible for membership thereof under the provisions of this section.

(4) Unless express provision is made to the contrary in the memorandum of association or articles of association of any co-operative dairy company registered as such under the Co-operative Dairy Companies Act 1949, it shall have power to become a member of an association and to give any premium note which may be required in order to obtain any insurance cover from the association.

Compare: 1908 No 125 s 2

The original subsection (1)(f) was inserted, as from 16 October 1964, by section 2 Mutual Insurance Amendment Act 1964 (1964 No 14).

Subsection (1)(f) was substituted, and subsection (1)(g) was inserted, as from 21 October 1982, by section 3 Mutual Insurance Amendment Act 1982 (1982 No 30).

Subsection (1)(g) was substituted, as from 26 April 2005, by section 7 Relationships (Statutory References) Act 2005 (2005 No 3).

4 Application to form new association

(1) An application to the Governor-General for the grant of a warrant for the formation of an association may be made in any case where—

(a) two hundred or more persons who are eligible for membership of the association have subscribed their names to a declaration which—

(i) declares that they have bound themselves to form an association for the purpose of mutual insurance against fire or lightning or explosion, and to effect insurance against those risks with the proposed association amounting to not less than the sum specified as regards each subscriber and not less than $400,000 in the aggregate; and

(ii) states the proposed name of the association (of which name the words **Mutual Insurance Association** shall form part), the territorial authority district where its principal place of business will be situated, and the name of the interim secretary of the association; and

(b) that declaration has been filed with the Registrar, and a copy thereof has been served on Public Trust; and

(c) at the time of the filing of the last-mentioned declaration or subsequently, there has been filed with the Registrar a statutory declaration by a solicitor of the High Court engaged in the formation of the association, or by the said interim secretary, that he believes that all of the subscribers are eligible for membership of the proposed association, and that all of the requirements of this section have been complied with.

(2) The declaration by the subscribers may also state the number and names of the subscribers selected as the first directors of the association.

(3) Any such application to the Governor-General may be made by the said interim secretary, or by some person authorised in writing to make the application by at least 10 of the subscribers.

Compare: 1908 No 125 s 2

Subsection (1)(a)(ii) was amended, as from 1 April 1980, by section 8(3) Local Government Amendment Act 1979 (1979 No 59) by substituting the words "territorial authority district" for the words "city, borough, or town district".

Subsection (1)(b) was amended, as from 1 March 2002, by section 170(1) Public Trust Act 2001 (2001 No 100) by substituting the words "Public Trust" for the words "the Public Trustee". *See* clause 2 Public Trust Act Commencement Order 2002 (SR 2002/11).

5 Governor-General may issue warrant authorising formation of new association

(1) Upon any such application being duly made to him as aforesaid, the Governor-General in Council may, notwithstanding anything contained in the Companies Act 1955, the Companies Act 1993, or any other Act, grant a warrant authorising the subscribers to constitute themselves, together with such others as may thereafter join with them, an association under the provisions contained in this Act.

(2) The warrant shall state the proposed name of the association and the territorial authority district where its principal place of business will be situated.

Compare: 1908 No 125 s 2

The reference to the Companies Act 1955, in subsection (1) was substituted, as from 1 January 1957, for a reference to the Companies Act 1933 pursuant to section 474(1) Companies Act 1955 (1955 No 63).

Subsection (1) was amended, as from 1 July 1994, by section 2 Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16) by inserting the words ", the Companies Act 1993,".

Subsection (2) was amended, as from 1 April 1980, by section 8(3) Local Government Amendment Act 1979 (1979 No 59) by substituting the words "territorial authority district" for the words "city, borough, or town district".

6 First general meeting

(1) As soon as may be convenient after the warrant is obtained, the said interim secretary or any other person who may be authorised in writing so to do by not less than 10 of the subscribers may call a first general meeting of the association.

(2) The meeting shall be held at some convenient place within the territorial authority district where the principal place of business of the association is to be situated.

(3) At least 10 days' notice of the meeting (exclusive of the day on which the notice is given, but inclusive of the day for which notice is given) shall be given by notice posted to each subscriber at his last known place of abode or business, or by advertisement in a newspaper circulating in the district in which the business of the association is to be conducted.

Compare: 1908 No 125 s 3

Subsection (2) was amended, as from 1 April 1980, by section 8(3) Local Government Amendment Act 1979 (1979 No 59) by substituting the words "territorial authority district" for the words "city, borough, or town district".

7 Incorporation of association

(1) If at that meeting a resolution is passed by a majority of those of the subscribers who attend the meeting that the association be incorporated under the name mentioned in the said warrant and have its principal place of business in the territorial authority district mentioned in the said warrant, then, upon the filing with the Registrar of a copy of the resolution purporting to be certified by the chairman of the meeting or by the said interim secretary, and upon payment of a fee of $44, the subscribers, together with such other persons as may from time to time become members of the association, shall be a body corporate by and under the said name and having perpetual succession and a common seal.

(2) The Registrar may issue a certificate that the association is incorporated as from a date mentioned in the certificate, and any certificate so issued shall be conclusive evidence that the association has been duly incorporated as from the said date under the provisions of this Act.

Compare: 1908 No 125 s 4

Subsection (1) was amended, as from 1 April 1980, by section 8(3) Local Government Amendment Act 1979 (1979 No 59) by substituting the words "territorial authority district" for the words "city, borough, or town district".

8 Change of name and place of business

(1) An association may, by special resolution and with the written approval of the Registrar, change its name, or the territorial authority district where its principal place of business is to be situated:

Provided that, where the name of the association is changed, the words **Mutual Insurance Association** shall form part of the new name.

(2) A resolution shall be a special resolution when it has been passed by a majority of not less than three-fourths of such members as, being entitled so to do, vote at a general meeting of which notice specifying the intention to propose the resolution as a special resolution has been duly given.

(3) The association shall forthwith give notice of the passing of any such resolution to the Registrar and shall pay a fee of $4 for the registration thereof. The Registrar shall note the effect of the resolution on the register and on the certificate of incorporation of the association, or shall issue a new certificate of incorporation. The Registrar shall also publish in the *Gazette*, at the expense of the association, a notice of the change of its name, or of the territorial authority district where its principal place of business is to be situated.

(4) A change of name shall not affect any rights or obligations of the association, or render defective any legal proceedings by or against the association, and any legal proceedings that might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

Subsections (1) and (3) were amended, as from 1 April 1980, by section 8(3) Local Government Amendment Act 1979 (1979 No 59) by substituting the words "territorial authority district" for the words "city, borough, or town district".

9 Membership

(1) The subscribers shall be deemed to have agreed to become members of the association, and on its incorporation shall, if

then eligible for membership thereof, be entered as members in its register of members.

(2) The association may admit as a member thereof any person who is eligible for membership and agrees to become a member, and the person shall be a member upon his name being entered in the association's register of members.

(3) The association shall keep the said register of members in one or more books or in the form of cards, and shall enter therein the name, address, and description of each member and the date on which his name was entered in the register. The register shall also show the date on which any former member ceased to be a member of the association.

(4) The register of members shall be sufficient evidence in the absence of proof to the contrary of any matters by this Act directed or authorised to be inserted therein.

Compare: 1908 No 125 s 6

10 Resignations

(1) Any member of the association may, with the consent of the Board, resign therefrom upon such terms as the Board may require.

(2) If for a period of 6 months there shall be no current contract of insurance between the association and a member thereof, then the member shall cease to be a member of the association at the end of that period but without releasing the association from any liability to which it may then be subject and without releasing the former member from liability for the amount of any calls made on him before he ceased to be a member of the association and for any premiums or other money due by him to the association.

Compare: 1908 No 125 s 28

11 Powers of association in relation to land

An association may from time to time, either solely or jointly with any other person or association,—

(a) acquire by purchase, lease, sublease, or otherwise any land or interest in land with or without any building, or

any building or structure or any part of any building or structure, or any interest therein:

(b) dispose of by sale, lease, sublease, or otherwise any land or interest in land, or any building or structure or any part of any building or structure, or any interest therein:

(c) erect, alter, or improve any building or structure on any land acquired by that association:

(d) enter into arrangements concerning the management and occupation of any land or any interest in land, or any building or structure or part of any building or structure, or interest therein on such terms and conditions as shall be mutually agreed upon between the association and any other person or association:

(e) mortgage or otherwise charge any land or any interest in land.

Section 11 was substituted, and section 11A was repealed, as from 21 October 1982, by section 4 Mutual Insurance Amendment Act 1982 (1982 No 30).

11A Power to join farmer's welfare organisations in acquiring land, etc.

[Repealed]

This section was inserted, as from 23 October 1963, by section 2(1) Mutual Insurance Amendment Act 1963 (1963 No 103).

Subsection (1) was substituted, as from 13 December 1968, by section 2 Mutual Insurance Amendment Act 1968 (1968 No 96).

Section 11 was substituted, and section 11A was repealed, as from 21 October 1982, by section 4 Mutual Insurance Amendment Act 1982 (1982 No 30).

11B Powers of association to hold shares in certain companies

(1) An association shall also have power to be a member of and to hold shares in any one or more of the following companies:

(a) any company which has as its principal business the business of writing, effecting, or arranging insurance relating to the primary industries of New Zealand:

(b) any company if—

(i) all members of that company, or all members thereof excepting one, are associations or trustees of associations; and

(ii) the principal object of that company is to hold shares in any company which has as its principal

business the business of writing, effecting, or arranging insurance relating to the primary industries of New Zealand:

(c) any company which may hold land if—

(i) the other member or members of the company are bodies corporate or other organisations whose principal business or activity is related to or connected with farms or persons living on farms or outside the boundaries of cities and boroughs; and

(ii) the association and other member or members of the company have or propose to establish on land held by the company offices for the transaction of their respective businesses:

(d) any company the principal business of which is the provision for the primary industries of New Zealand of any or all of the following:

(i) financial services:

(ii) services as a trustee:

(iii) services as a real estate agent.

(2) The Board, on behalf of the association, may from time to time—

(a) sell or mortgage the association's shares in any such company:

(b) subscribe for, accept, or take up any bonus shares or other rights or benefits issued or given by any such company:

(c) agree to any amalgamation or reconstruction of any such company and take up shares in any such amalgamated or reconstructed company if the amalgamated or reconstructed company is a company in which the association is empowered to hold shares pursuant to subsection (1) of this section:

(d) appoint a representative or representatives to accept a seat or seats on the Board of Directors of any such company or any amalgamated or reconstructed company.

The original section 11B was inserted, as from 13 December 1968, by section 3(1) Mutual Insurance Amendment Act 1968 (1968 No 96).

Subsection (1) of the original section 11B was substituted, as from 8 December 1971, by section 2 Mutual Insurance Amendment Act 1971 (1971 No 113).

Subsection (1)(b)(i) of the original section 11B was substituted, as from 25 November 1977, by section 3 Mutual Insurance Amendment Act 1977 (1977 No 74).

This section was substituted, as from 6 November 1986, by section 2(1) Mutual Insurance Amendment Act 1986 (1986 No 104).

Insurance by associations

12 Power of association to insure property of members against fire, lightning, and explosion

(1) An association may, at any time while the total amount due under current premium notes held by it and signed by members of the association is at least $40,000, insure isolated property belonging to any member of the association or in which any member of the association has an insurable interest against loss or damage by fire, lightning, or explosion, or any of those risks.

(2) An association shall not enter into any contract of insurance at any time while the total amount due under current premium notes held by it and signed by members of the association is less than $40,000.

Compare: 1908 No 125 ss 31, 34; 1943 No 9 s 16

13 Extension of powers of associations

The Governor-General may from time to time, by Order in Council, make regulations for the extension, subject to such conditions and restrictions as he thinks fit, of the powers of an association to grant to its members such other kinds of insurance (except life insurance) as shall be specified in the regulations.

Compare: 1913 No 39 s 2; 1948 No 77 s 32

14 Further extension of powers of strong associations

(1) If the Minister has published in the *Gazette* a notice that he is satisfied that the association therein specified has a reasonable margin of solvency within the meaning of this section, and if that notice has not been revoked, the association may grant to its members insurance covers in respect of any property owned

by them notwithstanding that the property is not isolated property:

Provided that nothing in this subsection shall authorise an association to grant an insurance cover of a kind which it would not otherwise be empowered to grant.

(2) Any such notice may at any time be revoked by the Minister by a further notice in the *Gazette* if in his opinion the association no longer has a reasonable margin of solvency, or for any other reason which seems to him sufficient.

(3) In determining whether an association has a reasonable margin of solvency within the meaning of this section, the Minister shall have regard to—

(a) the amount by which its realisable assets (other than goodwill and money due by its members) exceeds the total of its liabilities, other than contingent or prospective liabilities in respect of events that have not yet happened; and

(b) the total amount due under current premium notes which the association holds from its members.

(4) An association shall be deemed to have a reasonable margin of solvency within the meaning of this section if, in the opinion of the Minister, whose decision shall be final and binding on all persons, the total of the amounts specified in subsection (3) of this section is not less than $150,000, and neither of those amounts is less than $50,000.

15 Additional powers when deposits made under Insurance Companies' Deposits Act 1953

(1) If an association has deposits with Public Trust under the Insurance Companies' Deposits Act 1953 amounting to $45,000 in respect of the kind of insurance business described in Schedule 1 to that Act as class 1, and to $45,000 in respect of the kind of insurance business therein described as class 2, and amounting to $10,000 in respect of the kinds of insurance business therein described as class 4, and if the Minister has published in the *Gazette* a notice that he is satisfied that the association has realisable assets (including such deposits but not including goodwill or money due by its members) the value of which exceeds the total amount of its liabilities (other than contingent

or prospective liabilities in respect of events that have not yet happened) by not less than $100,000 and that the association holds current premium notes from its members under which a total amount of not less than $50,000 is due, and if that notice has not been revoked, then the association shall have power to grant to its members insurance covers of all kinds except life insurance:

Provided that the association shall not undertake the kind of insurance business described in Schedule 1 to the Insurance Companies' Deposits Act 1953 as class 3 unless it has made a further deposit with Public Trust under that Act amounting to $20,000.

(2) The insurance covers which may be granted under the power conferred by this section may relate to isolated property or other property or to risks not connected with property.

(3) Notwithstanding anything to the contrary in the Insurance Companies' Deposits Act 1953—

(a) an association may make any such deposit with Public Trust:

(b) Public Trust shall accept any such deposit if it is offered to it:

(c) all the provisions of that Act, so far as they are applicable and with the necessary modifications, shall apply to any deposits made under this subsection.

(4) Any such notice may at any time be revoked by the Minister by a further notice in the *Gazette* if in his opinion the circumstances are no longer such that publication of such a notice in respect of the association would be justified or for any other reason which seems to him sufficient; and thereupon no further insurances shall be granted by the association in reliance on the provisions of this section.

(5) The decision of the Minister to publish or revoke, or to refuse to publish or revoke, any such notice shall be final and binding on all persons.

Subsection (1) was amended, as from 1 March 2002, by section 170(1) Public Trust Act 2001 (2001 No 100) by substituting the words "Public Trust" for the words "the Public Trustee" wherever they occur. *See* clause 2 Public Trust Act Commencement Order 2002 (SR 2002/11).

Subsection (3) was amended, as from 1 March 2002, by section 170(1) Public Trust Act 2001 (2001 No 100) by substituting the words "Public Trust" for the words "the Public Trustee" (or "The Public Trustee") wherever they occur.

Subsection (3)(b) was amended, as from 1 March 2002, by section 170(1) Public Trust Act 2001 (2001 No 100) by substituting the word "it" for the word "him".

16 Renewal of existing covers

Where, before the 30th day of June 1954, an association has granted an insurance cover to a member in the belief that it was by law authorised so to do, the cover may be renewed or a new cover (whether for the same amount or not) of the same kind may be granted over the same property while it is owned by that member, notwithstanding that the granting of the cover would otherwise exceed the powers of the association.

17 Insurance of trustees

(1) If a person in his capacity as trustee is the owner or occupier of a farm or the owner of any isolated property, it shall be lawful for him to enter into a contract with an association for an insurance cover in respect of any property held by him in his capacity as trustee, or in respect of any risk which he may incur in his capacity as trustee, and to execute any premium note in respect thereof to the same extent in all respects as if the trustee were the beneficial owner of the property insured.

(2) Every trustee who, in accordance with the foregoing provisions of this section, enters into any contract of insurance with an association shall, while the contract remains in force, be deemed to be a member of that association. Where a trustee has entered into contracts of insurance as aforesaid in respect of property belonging to different estates, his voting powers as a member of the association shall be determined separately in respect of each estate.

(3) No trustee shall be personally liable under any premium note given by him for the purposes of any contract of insurance to which this section refers.

(4) For the purposes of this section the term **trustee** includes an executor or administrator.

Compare: 1934 No 9 s 2

18 Premium note

(1) Except as provided in subsection (5) of this section, no insurance cover (other than provisional insurance cover for a term not exceeding 2 months) shall be granted by an association to a member unless the association holds a premium note signed by the member.

(2) The amount of the premium note so required shall be as determined by the Board either generally or in any special case: Provided that, except as provided in subsections (3) and (4) of this section, the amount of the premium note in respect of each insurance cover granted by an association shall not be less than 5 times the amount of the cash premium payable in respect thereof for the first year of insurance or for the term of the policy if it is not more than a year; and the premium note, or the total of the current premium notes, required from each member to whom any insurance cover has been granted by an association shall be for not less than $40.

(3) If a notice under section 14 of this Act has been published in respect of any association and has not been revoked, the Board may determine that the amount of the premium note required from each member to whom an insurance cover is granted shall be such sum as is from time to time fixed by the Board (not being less than $20) and that only one such premium note need be current in respect of each such member, notwithstanding that more than one insurance cover may be granted to him.

(4) While an association is authorised to exercise the extended powers mentioned in section 15 of this Act, the Board may determine that the amount of the premium note required from each member to whom an insurance cover is granted shall be such sum as is from time to time fixed by the Board (not being less than $10) and that only one such premium note need be current in respect of each such member, notwithstanding that more than one insurance cover may be granted to him.

(5) If any company or other body corporate or organisation which is a member of an association desires to obtain an insurance cover from the association but has no power to give the necessary premium note, then the Board may accept a premium note signed by a member or members of the company, body corporate, or organisation instead of a premium note from it;

and for that purpose the necessary alterations shall be made in the form of the premium note as set out in Schedule 2 to this Act.

Compare: 1908 No 125 s 32

Subsection (1) was amended, as from 19 October 1978, by section 2 Mutual Insurance Amendment Act 1978 (1978 No 113) by inserting the words "(other than provisional insurance cover for a term not exceeding 2 months)".

18A Transfer of insurance cover granted by a subsidiary

(1) For the purposes of this section, a subsidiary of an association is a company that is a subsidiary of that association for the purpose of sections 158 and 158A of the Companies Act 1955 or sections 5 and 6 of the Companies Act 1993, as the case may be.

(2) Where an insured under any insurance cover granted by a subsidiary of an association wishes to renew that cover in the name of the association as insurer, the association shall be deemed to hold the signed premium note required by section 18 of this Act if (before or after the commencement of this section) the insured—

(a) has agreed to become a member of the association; and

(b) has been given written notice—

(i) setting out the terms of the premium note which, but for this section, the association would have had to obtain from the insured before renewing the insurance cover in the name of the association as insurer; and

(ii) stating that, if the insured renews the insurance cover in the name of the association as insurer, the association will be deemed to hold a premium note in those terms signed by him.

This section was inserted, as from 19 October 1978, by section 3 of the Mutual Insurance Amendment Act 1978 (1978 No 113).

Subsection (1) was substituted, as from 1 July 1994, by section 2 Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

19 Calls on premium notes

(1) For the purposes of meeting the losses and other expenditure of the association, whether already incurred or anticipated, or for the purposes of forming or augmenting the association's

reserve fund, the Board may from time to time make calls upon members in respect of any money unpaid on their premium notes.

(2) Subject to the provisions of subsection (2) of section 35 of this Act, any such call may relate either to the whole of the amounts unpaid under the premium notes or to a specified proportion of the amounts of the premium notes.

(3) The amount of any such call shall be payable within 30 days after notice thereof has been posted to the person liable at his postal address as last known to the association.

(4) If the amount of any call is not paid within that period of 30 days, the association may sue for and recover the amount in any Court of competent jurisdiction, together with costs and with interests upon the sum payable as from the expiration of that period of 30 days at the prescribed rate within the meaning of section 87 of the Judicature Act 1908 in force as at the commencement of the period for which such interest is payable.

(5) In any proceedings for the recovery of the amount of any such call as aforesaid, a certificate by the association's secretary showing what call has been made, the amount thereby due to the association on any premium note specified in the certificate, and the date of posting of notice of the call to the person liable under the premium note as aforesaid shall, in the absence of proof to the contrary, be taken and received in any Court as sufficient evidence of the matters so certified.

Compare: 1908 No 125 ss 41, 42, 45, 46, 47

Subsection (4) was substituted, as from 21 October 1982, by section 5 Mutual Insurance Amendment Act 1982 (1982 No 30).

20 Forfeiture of policies

(1) If the amount of any such call is not paid within 30 days after notice thereof has been posted to the person liable as aforesaid, the Board may cause a further notice to be posted to him as aforesaid stating that, in the event of non-payment of the amount of the call on or before a day specified in the further notice (not being earlier than the expiration of 14 days from the date of the posting of that notice), the policy or contract of insurance mentioned in that notice will be null and void.

(2) A copy of the further notice shall be posted by the association to any other person who may be interested in the policy or contract of insurance, whether as mortgagee or otherwise.

(3) If payment of the amount is not made on or before the said day specified in the notice, the policy or contract of insurance shall, unless the Board otherwise directs, become null and void as regards all claims in respect of losses or events happening after that day.

(4) No person shall be released from liability for the amount of any call made upon him by reason of any such policy or contract of insurance becoming null and void under the provisions of this section.

Compare: 1908 No 125 s 43

21 Premium note to become void within specified time after policy expires

(1) Six months after any policy or contract of insurance shall have expired or been cancelled or forfeited any premium note given in respect thereof shall become void and shall, on application therefor, be returned to the person liable thereunder:
Provided that:

(a) if the person liable under the premium note still has any policy or contract of insurance with the association, the premium note shall continue in force and the association may retain it unless the association holds some other sufficient premium note from that person:

(b) nothing in this subsection shall release any person from liability for the amount of any call already made upon him.

(2) If an association holds a premium note from a member for a greater amount than is for the time being required, the Board may in its discretion authorise the return of that premium note to that member upon receiving from him such other premium note (if any) as may be required.

Compare: 1908 No 125 ss 37, 48

22 Cash premiums

(1) Every member to whom any policy of insurance is granted or with whom any contract of insurance is made by the associ-

ation shall pay such cash premium or cash premiums as may be required therefor in accordance with any tariff of rates for insurance from time to time adopted by the Board or in accordance with any agreement between the member and the association.

(2) The said cash premium or cash premiums shall be payable by the member in addition to the amount of any calls under any premium note signed by him.

Compare: 1908 No 125 s 22

23 Policies

(1) All policies of insurance issued by the association shall be signed by such one or more persons (being directors or employees of the association) as may from time to time be authorised for the purpose by the Board.

(2) Any policy issued by the association and signed by one or more persons shall be valid in favour of any person acting in good faith, notwithstanding—

(a) any defect in the appointment of any person who purports to have signed it as a director or employee of the association; or

(b) that any director or employee of the association who has signed it has not been authorised by the Board to do so.

(3) The rights conferred by subsection (2) of this section on a person acting in good faith do not restrict any other rights of that person.

Subsection (3) of the original section 23 was repealed, as from 29 July 1977, by section 16 Insurance Law Reform Act 1977 (1977 No 14).

This section was substituted, as from 21 October 1982, by section 6 Mutual Insurance Amendment Act 1982 (1982 No 30).

24 Change of ownership of insured property

(1) Upon alienation or partial alienation of the insured property or of any interest therein, the association may determine the insurance cover.

(2) If the member insured retains any interest (other than an interest as mortgagee) in the insured property, or if any other person who has acquired the insured property or any interest therein is eligible for membership of the association, the association

may, with the express or implied consent of the person entitled to the benefit of the insurance cover, agree that it shall remain in force and shall extend to cover any person entitled wholly or partly to the insured property or any interest therein as well as the person previously insured to the extent of such interest (if any) as he may retain.

(3) If the insurance cover is allowed to remain in force, the association may retain the premium note of the member originally insured or may take from the person who has become owner of the insured property a premium note for such amount as would have been required if a new policy had then been granted to that person instead of the policy being transferred, and thereupon the person originally insured by the policy shall become entitled to the return of his premium note and the premium note shall become void at the same time and upon the same conditions as if the insurance cover had been determined at the time of the alienation of the insured property.

(4) Where the assignee is a mortgagee, the association may permit the policy to remain in force, and to be transferred to him by way of additional security, without requiring any premium note from the assignee, and without his becoming in any manner personally liable for premiums or otherwise; but in such case the premium note and liability of the mortgagor in respect thereof shall continue and be in no way affected.

Compare: 1908 No 125 s 38

25 Reinsurance

(1) The association may make arrangements with any insurance company or underwriters or with the State Insurance General Manager or with another association for the reinsurance of risks under policies or contracts of insurance granted by the association to its members.

(2) The association may also make arrangements with another association to grant reinsurances of risks under policies or contracts of insurance granted by the other association to its members.

(3) Any such arrangements may be made subject to such conditions, whether with respect to the payment of premiums or otherwise, as may be agreed upon.

Compare: 1908 No 125 s 27

In subsection (1) the reference to the State Insurance General Manager was substituted for a reference to the State Fire Insurance General Manager by section 36(4) of the State Insurance Act 1963.

General meetings

26 General meetings

(1) The association shall in each financial year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than 15 months shall elapse between the date of one annual general meeting of the association and that of the next.

(2) The annual general meeting shall be held at such time and place as the Board appoints.

(3) All general meetings other than annual general meetings shall be called extraordinary general meetings.

(4) The Board may, whenever it thinks fit, convene an extraordinary general meeting; and shall convene an extraordinary general meeting if required to do so by 25 members of the association.

Compare: 1908 No 125 s 7

27 Notice of general meetings

(1) At least 14 days' notice of each general meeting (exclusive of the day on which the notice is given, but inclusive of the day for which notice is given) shall be given to the members of the association, and shall specify the place, the day, and the hour of the meeting, and (in any case where special business is to come before the meeting) the general nature of that business.

(2) Such notice may be given either—

(a) by being posted to each member at his last known place of abode or business; or

(b) by being published in at least one newspaper or farming journal circulating in the district in which the business of the association is conducted.

(3) The accidental omission to give notice of a meeting to, or the non-receipt of notice by, any member of the association when notices are posted as aforesaid shall not invalidate the proceedings at any meeting.

Compare: 1908 No 125 s 9

28 Proceedings at general meetings

(1) All business shall be deemed special that is—

(a) transacted at an annual general meeting, with the exception of declaring a rebate, the consideration of the accounts, balance sheets, and the reports of the Board and auditors, the election of directors in the place of those retiring, the fixing of the remuneration of directors, and the appointment of and the fixing of the remuneration of auditors; or

(b) transacted at an extraordinary general meeting.

(2) No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.

(3) Except as provided in subsection (4) of this section, at any general meeting 10 members present in person shall form a quorum.

(4) If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; but in any other case it shall stand adjourned to the same day of the next week at the same time and place, or such other day and at such other time and place as the Board may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum.

(5) The chairman, if any, of the Board shall preside at every general meeting of the association. In the event of the chairman not being present, the deputy chairman or some other director elected by those present shall preside at the meeting.

(6) At any general meeting a resolution put to the vote of the meeting shall be decided on the voices, or on a show of hands if

requested by one member, unless a poll is (before or on the declaration of the result of the show of hands) demanded—

(a) by the chairman; or

(b) by at least 2 members present in person or by proxy.

(7) Unless a poll is so demanded, a declaration by the chairman that a resolution has been carried or lost, and an entry to that effect in the book containing the minutes of proceedings at general meetings of members, shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(8) The chairman shall have a deliberative vote and, in the case of an equality of votes whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall also have a casting vote.

(9) Any instrument appointing a proxy to vote at a meeting of an association shall also confer authority to demand or join in demanding a poll.

Subsection (6)(b) was amended, as from 21 October 1982, by section 7(1) Mutual Insurance Amendment Act 1982 (1982 No 30) by inserting the words "or by proxy".

Subsection (9) was inserted, as from 21 October 1982, by section 7(2) Mutual Insurance Amendment Act 1982 (1982 No 30).

29 Votes of members

(1) Every member present at a general meeting shall have one vote, except as provided in subsection (2) of section 17 of this Act as regards trustees, and in subsection (8) of section 28 of this Act as regards the chairman of a meeting.

(2) No member shall be entitled to vote at any general meeting unless all money presently payable by him to the association has been paid.

(3) Any company, body corporate, or other organisation which is a member of the association or entitled to vote at a meeting may, pursuant to a resolution of its directors or other governing body, give written authority to such person as it thinks fit to act as its representative at any meeting of the association, and the person so authorised shall on production of his written authority be entitled to exercise the same powers on behalf of

the company, body corporate, or other organisation which he represents as it could exercise if it were an individual member of the association present at the meeting.

(4) A member whose estate is under administration pursuant to the provisions of the Protection of Personal and Property Rights Act 1988 may vote by the manager or other person having authority to administer his estate.

(5) A member in respect of whose estate or any part thereof a protection order has been made under the Protection of Personal and Property Rights Act 1988 may vote by the manager of his estate or of the part thereof, unless the High Court shall have otherwise ordered.

Compare: 1908 No 125 s 10

In the original subsection (4) the Mental Health Act 1969, being the corresponding enactment in force, was substituted for the repealed Mental Health Act 1911, and the reference to the manager was substituted for a reference to the committee by section 129(7) of the Mental Health Act 1969.

In subsections (4) and (5) the reference to the Protection of Personal and Property Rights Act 1988 replaced the reference to the Mental Health Act 1969 pursuant to section 113 Protection of Personal and Property Rights Act 1988 (1988 No 4).

In subsection (5) the reference to the Protection of Personal and Property Rights Act 1988 replaced the reference to the Aged and Infirm Persons Protection Act 1912 pursuant to section 113 Protection of Personal and Property Rights Act 1988 (1988 No 4).

In subsection (5) the reference to property order was substituted for a reference to protection order pursuant to section 117(3) Protection of Personal and Property Rights Act 1988 (1988 No 4).

29A Association may authorise proxy voting

An association may, by special resolution passed in the manner prescribed by section 8(2) of this Act, authorise proxy voting at meetings of the association.

Sections 29A and 29B were inserted, as from 21 October 1982, by section 8 Mutual Insurance Amendment Act 1982 (1982 No 30).

29B Provisions applying to proxy voting

(1) This section applies where proxy voting at a meeting of the association is authorised by a special resolution passed under section 29A of this Act.

(2) Any member of an association entitled to attend and vote at a meeting of the association shall be entitled to appoint another

person (whether a member or not) as his proxy to attend and vote instead of him, and a proxy appointed to attend and vote shall also have the same right as the member to speak at the meeting.

(3) A member shall not be entitled to appoint more than one proxy to attend on the same occasion, but may appoint 2 or more alternative proxies.

(4) A proxy shall not be entitled to vote except on a poll.

(5) In every notice calling a meeting there shall appear with reasonable prominence a statement that a member entitled to attend and vote is entitled to appoint a proxy to attend and vote instead of him, and that a proxy need not also be a member; and every officer of the association who knowingly and wilfully authorises or permits default in complying with this subsection in respect of any meeting commits an offence and shall be liable on summary conviction to a fine not exceeding $100.

(6) Neither an instrument appointing a proxy nor any other document necessary to show the validity of or otherwise relating to the appointment of a proxy shall be required to be received by the association or any other person more than 48 hours before a meeting or adjourned meeting in order that the appointment may be effective thereat.

(7) If for the purpose of any meeting of an association invitations to appoint as proxy a person or one of a number of persons specified in the invitations are issued at the association's expense to some only of the members entitled to be sent a notice of the meeting and to vote thereat by proxy, every officer of the association who knowingly and wilfully authorises or permits their issue as aforesaid commits an offence and shall be liable on summary conviction to a fine not exceeding $200:
Provided that an officer shall not be liable under this subsection by reason only of the issue to a member at his request in writing of a form of appointment naming the proxy or of a list of persons willing to act as proxy if the form or list is available on request in writing to every member entitled to vote at the meeting by proxy.

(8) The instrument appointing a proxy shall be in writing under the hand of the appointer or if his attorney duly authorised in

writing, or, if the appointer is a corporation, either under seal or under the hand of an officer or attorney duly authorised.

(9) The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the principal place of business of the association or such other place within New Zealand as is specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

(10) An instrument appointing a proxy shall be in the form 1 set out in Schedule 4 to this Act or a form as near thereto as circumstances admit.

(11) Where it is desired to afford members an opportunity of voting for or against a resolution the instrument appointing a proxy shall be in the form 2 set out in Schedule 4 to this Act or a form as near thereto as circumstances admit.

(12) A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, if no intimation in writing of such death, insanity, or revocation as aforesaid has been received by the association at the principal place of business of the association before the commencement of the meeting or adjourned meeting at which the proxy is used.

Sections 29A and 29B were inserted, as from 21 October 1982, by section 8 Mutual Insurance Amendment Act 1982 (1982 No 30).

Board of Directors

30 The Board of Directors

(1) The Board of Directors shall consist of not fewer than 6 nor more than 14 members of the association.

(2) If the number and names of the first directors are not stated in the declaration filed with the Registrar in accordance with section 4 of this Act, these shall be determined at the first general meeting held in accordance with section 6 of this Act.

(3) No person shall be qualified to become a director at any time after the holding of the said first general meeting unless he is a member of the association and has property insured against fire with the association to the amount of $1,000 at least.

(4) At the first annual general meeting of the association all the directors shall retire from office, and at the annual general meeting in every subsequent year one-third of the directors for the time being, or if their number is not 3 or a multiple of 3, then the number nearest one-third, shall retire from office.

(5) The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

(6) A retiring director shall be eligible for re-election.

(7) The association, at the meeting at which a director retires in manner aforesaid, may fill the vacated office by electing a member thereto, and in default the retiring director shall, if offering himself for re-election, be deemed to have been re-elected unless at the meeting it is resolved not to fill the vacated office.

(8) The association may from time to time by ordinary resolution increase or reduce the number of directors within the limits specified in subsection (1) of this section, and may also determine in what rotation the increased or reduced number is to go out of office.

(9) The Board shall have power at any time, and from time to time, to appoint any member to be a director, either to fill a casual vacancy or as an addition to the existing directors, but so that the total number of directors shall not at any time exceed the number fixed in accordance with this section. Any director so appointed shall hold office only until the next following annual general meeting, and shall then be eligible for re-election, but shall not be taken into account in determining the directors who are to retire by rotation at that meeting.

(10) The office of director shall be vacated if the director,—

(a) ceases to be a member of the association or to have property insured against fire with the association to the amount of $1,000 at least; or

(b) without the consent of the association in general meeting, holds any other office of profit under the association; or

(c) becomes bankrupt or makes any arrangement or composition with his creditors generally; or

(d) becomes a person subject to a property order within the meaning of the Protection of Personal and Property Rights Act 1988 (other than an order under section 30 of that Act); or

(e) resigns his office by notice in writing to the association; or

(f) fails to declare, in accordance with section 30B of this Act, the nature of his interest in a contract or proposed contract with the association.

(g) absents himself from 3 consecutive regular meetings of the Board without leave being granted by resolution recorded in the minutes.

(10A) A person's office as director is suspended while the director is subject to a property order made under section 30 of the Protection of Personal and Property Rights Act 1988 (which relates to temporary orders) and, during that period,—

(a) the person is deemed to have been granted leave of absence by the Board; and

(b) the person is not capable of acting as a director.

(11) *[Repealed]*

(12) The remuneration of the directors shall from time to time be determined by the association in general meeting. That remuneration shall be deemed to accrue from day to day. The directors shall also be paid all travelling, hotel, and other expenses properly incurred by them in attending and returning from meetings of the Board or any committee of the Board or general meetings of the association or in connection with the business of the association.

(13) The Board may appoint advisory directors under the following conditions:

(a)

(b) they shall continue in office until the appointment is terminated by the Board:

(c) they shall attend meetings of the Board by invitation only:

(d) they shall have no voting powers at meetings:

(e) they shall receive such fee for their services as may be determined by the Board.

Compare: 1908 No 125 ss 5, 14, 15, 18

Subsection (1) was amended, as from 25 November 1977, by section 4 Mutual Insurance Amendment Act 1977 (1977 No 74) by substituting the words "6 nor more than 14" for the words "six nor more than twelve".

Section 30(10)(d): amended, on 10 September 2008, by section 11(2)(a) of the Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008 (2008 No 64).

Section 30(10)(d): amended, on 10 September 2008, by section 11(2)(b) of the Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008 (2008 No 64).

The words "mentally disordered person within the meaning of the Mental Health Act 1969" in subsection (10)(d) were substituted for the words "mentally defective person within the meaning of the Mental Health Act 1911", as from 1 April 1970, pursuant to section 129(4) Mental Health Act 1969 (1969 No 16) by substituting the reference to a "mentally disordered person" for a reference to a "mentally defective person".

A reference to the Mental Health (Compulsory Assessment and Treatment) Act 1992 (1992 No 46) in subsection (10)(d) was substituted for a reference to the Mental Health Act 1969 pursuant to section 137(1) Mental Health (Compulsory Assessment and Treatment) Act 1992 (1992 No 46).

The words "a person subject to a property order within the meaning of the Protection of Personal and Property Rights Act 1988" in section 10(d) were substituted, as from 1 October 1988, for the words "a protected person under the Aged and Infirm Persons Protection Act" pursuant to section 117(3) Protection of Personal and Property Rights Act 1988 (1988 No 4).

Subsection (10)(f) was substituted, as from 21 October 1982, by section 9(1) Mutual Insurance Amendment Act 1982 (1982 No 30).

Section 30(10A): inserted, on 10 September 2008, by section 11(3) of the Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008 (2008 No 64).

Subsections (11) and (13)(a) were repealed, as from 21 October 1982, by section 9(2) Mutual Insurance Amendment Act 1982 (1982 No 30).

30A Regional representation on Board of Directors

(1) Notwithstanding anything to the contrary in this Act except subsections (1), (3), (4), (5), (6), (9), (10), and (13) of section 30, an association may from time to time, by special resolution passed in the manner prescribed by section 8(2) of this Act,

whether passed before or after the commencement of this section, adopt rules providing for the division of New Zealand into specified regions, and for the election and removal in every specified region of a director or specified number of directors of the Board of Directors of the association.

(2) An association may in like manner amend or revoke any rules adopted under subsection (1) of this section.

(3) No rules adopted under this section, and no amendment or revocation of any such rules, shall take effect until approved by the Governor-General by Order in Council.

(4) All rules that are for the time being in force shall be binding on all persons who are for the time being members of the association by which they were adopted.

This section was inserted, as from 25 November 1977, by section 5 Mutual Insurance Amendment Act 1977 (1977 No 74).

Subsection (1) was amended, as from 21 October 1982, by section 10 Mutual Insurance Amendment Act 1982 (1982 No 30) by substituting the words "special resolution passed in the manner prescribed by section 8(2) of this Act" for the words "ordinary resolution".

30B Disclosure by directors of interests in contracts

(1) Subject to the provisions of this section, it shall be the duty of a director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the association to declare the nature of his interest at a meeting of the directors of the association.

(2) In the case of a proposed contract the declaration required by this section to be made by a director shall be made at the meeting of the directors at which the question of entering into the contract is first taken into consideration, or if the director was not at the date of that meeting interested in the proposed contract, at the next meeting of the directors held after he became so interested, and in a case where the director becomes interested in a contract after it is made, the said declaration shall be made at the first meeting of the directors held after the director becomes so interested.

(3) For the purposes of this section, a general notice given to the directors by a director to the effect that he is a member of a specified company or firm and is to be regarded as interested

in any contract which may, after the date of the notice, be made with that company or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made:
Provided that no such notice shall be of effect unless either it is given at a meeting of the directors or the director takes reasonable steps to secure that it is brought up and read at the next meeting of the directors after it is given.

(4) Any director who fails to comply with the provisions of this section commits an offence and shall be liable on summary conviction to a fine not exceeding $200.

(5) Nothing in this section shall be taken to prejudice the operation of any rule of law restricting directors of an association from having any interests in contracts with the association.

Compare: 1955 No 63 s 199

Sections 30B to 30D were inserted, as from 21 October 1982, by section 11 Mutual Insurance Amendment Act 1982 (1982 No 30).

30C Directors not to vote on contracts in which interested

A director shall not vote in respect of any contract or arrangement in which he is interested, and if he does so his vote shall not be counted, nor shall he be counted in the quorum present at the meeting, but neither of these prohibitions shall apply to—

(a) any arrangement for giving any director any security or indemnity in respect of money lent by him to or obligations undertaken by him for the benefit of the association; or

(b) any arrangement for the giving by the association of any security to a third party in respect of a debt or obligation of the association for which the director himself has assumed responsibility in whole or in part under a guarantee or indemnity or by the deposit of a security; or

(c) any contract or arrangement with any company or other association in which he is interested only as an officer of the company or other association or as a holder of shares or other securities,—

and these prohibitions may at any time be suspended or relaxed to any extent in respect of any particular contract, ar-

rangement, or transaction, by the association in general meeting.

Compare: 1955 No 63 Schedule 3, Table A, r 84(2)(a), (b), (d)

Sections 30B to 30D were inserted, as from 21 October 1982, by section 11 Mutual Insurance Amendment Act 1982 (1982 No 30).

30D Interested directors may affix seal

(1) Notwithstanding any rule of law, a director of an association who is interested in a contract or arrangement of or relating to the association may affix, or attest the affixing of, the common seal of the association to any document relating to the contract or arrangement to the same extent as if he were not so interested (whether or not he is entitled to vote in respect of that contract or arrangement at a meeting of directors of the association).

(2) This section shall apply in respect of every affixing or attestation of the affixing, of the common seal of an association to a document, whether performed before or after the commencement of this section.

Compare: 1955 No 63 s 199A; 1980 No 43 s 9

Sections 30B to 30D were inserted, as from 21 October 1982, by section 11 Mutual Insurance Amendment Act 1982 (1982 No 30).

31 Powers and duties of the Board

(1) The business of the association shall be managed by the Board, which may pay all expenses incurred in promoting and incorporating the association, and may exercise all such powers of the association as are not by this Act required to be exercised by the association in general meeting, subject nevertheless to such regulations as may be made by the association in general meeting; but no regulation made by the association in general meeting shall invalidate any prior act of the Board which would have been valid if that regulation had not been made.

(2) The Board may from time to time and at any time by power of attorney appoint any company, firm, or person or body of persons, whether nominated directly or indirectly by the Board, to be the attorney or attorneys of the association for such purposes and with such powers, authorities, and discretions (not exceeding those vested in or exercisable by the Board under

this Act) and for such period and subject to such conditions as it thinks fit, and any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Board may think fit, and may also authorise any such attorney to delegate all or any of the powers, authorities, and discretions vested in him.

(3) All cheques, promissory notes, drafts, bills of exchange, and other negotiable instruments, and all receipts for money paid to the association, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, in such manner as the Board from time to time by resolution determines.

(4) The Board shall cause minutes to be made in the books provided for the purpose—

(a) of all appointments of executive officers made by the Board:

(b) of the names of the directors present at each meeting of the Board, and of any committee of the directors:

(c) of all resolutions and proceedings at all meetings of the association, and of the Board, and of any committee of directors.

(5) Subject to such regulations as may be made by the association in general meeting, the Board shall have the following powers in particular, but without limiting the powers elsewhere in this Act conferred on it:

(a) to appoint and dismiss executive officers and agents of the association and arrange and subsidise schemes of superannuation for employed officers:

(b) to purchase or acquire or take on lease property or premises required for the fulfilment of the objects of the association and to sell or grant leases of any property held by the association:

(bb) to exercise any of the powers conferred on an association by section 11 of this Act:

(bbb) to purchase, take up, subscribe for, or otherwise acquire shares in any company, being shares which the association is empowered to hold pursuant to section 11B of this Act:

(c) to arrange for the issue of policies of insurance for terms not exceeding 5 years in duration, upon such conditions

as the Board considers fit and for the renewal of such policies whether by the issue of renewal receipts or of new policies:

(d) to enter into agreements with any insurance company or underwriters or with the State Insurance General Manager or with another association for one party to the agreement to act as agent for the other for such purposes and to such extent as may be specified in the agreement:

(e) to adopt a tariff of rates for insurance and vary the tariff from time to time and to grant rebates in respect of cash premiums:

(f) to subscribe to any public, general, or useful object:

(g) to do all such things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the association.

Compare: 1908 No 125 ss 21, 22, 24, 26

Subsection (5)(bb) was inserted, as from 23 October 1963, by section 2(2) Mutual Insurance Amendment Act 1963 (1963 No 103).

Subsection (5)(bb) was substituted, as from 21 October 1982, by section 12 Mutual Insurance Amendment Act 1982 (1982 No 30).

Subsection (5)(bbb) was inserted, as from 13 December 1968, by section 3(2) Mutual Insurance Act Amendment 1968 (1968 No 96).

In subsection (5)(d) the reference to the State Insurance General Manager was substituted, as from 18 October 1963, for a reference to the State Fire Insurance General Manager by section 36(4) of the State Insurance Act 1963 (1963 No 38).

31A Merger of associations

(1) Notwithstanding section 43 of this Act, the Board of Directors of any association shall have power to merge their association with another association, and to implement the merger by—

(a) causing their association to—

(i) transfer all the business, assets, property, premium notes, and policies of their association to the other association: or

(ii) accept the transfer of all the business, assets, property, premium notes, and policies of the other association; and

(b) executing and performing such acts, deeds, documents, and things as may be necessary or convenient to make

or accept the said transfer and to put the merger into full force and effect,—

if at a general meeting of the association, whether held before or after the commencement of this section, three-quarters of the association's members present and voting pass a resolution authorising the merger.

(2) In the event of any such merger and transfer—

(a) the business, assets, property, premium notes, and policies transferred from one association to another association shall pass to the transferee thereof subject to all charges, encumbrances, estates, and interests affecting the same; and

(b) all liabilities of the transferor in respect of the business, assets, property, premium notes, and policies transferred under this section shall be deemed to be liabilities of the transferee thereof; and

(c) all premium notes transferred from one association to another association shall have effect, from the time of their transfer, as if they had been made out in favour of the association to which they are transferred; and

(d) all members of the association whose business is transferred to another association shall, upon the transfer, become members of the association to which the business is transferred.

This section was inserted, as from 25 November 1977, by section 6 Mutual Insurance Amendment Act 1977 (1977 No 74).

32 Proceedings of the Board

(1) The Board may meet for the despatch of business, adjourn, and otherwise regulate its meetings as it may decide. Questions arising at any meeting shall be decided by a majority of votes. The chairman shall have a deliberative vote and, in the case of an equality of votes, the chairman shall also have a casting vote. The chairman may, and the secretary on the requisition of 3 directors shall, at any time summon a meeting of the Board. It shall not be necessary to give notice of a meeting of the Board to any directors for the time being absent from New Zealand.

(2) The quorum necessary for the transaction of the business of the Board shall be such number of the directors of the Board (not being advisory directors appointed under section 30(13) of this Act) as may be fixed by the Board, and unless so fixed shall be four of such directors.

(3) The Board may elect a chairman of its meetings and determine the period for which he is to hold office; but, if no such chairman is elected, or if at any meeting the chairman is not present within 5 minutes after the time appointed for holding the meeting, the directors present may choose one of their number to be chairman of the meeting.

(4) All acts done by any meeting of the Board or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of any director or person acting as aforesaid or that the directors were or any of them was disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

(5) A resolution in writing, signed by all the directors for the time being entitled to receive notice of a meeting of the Board, shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held.

Compare: 1908 No 125 ss 16, 20, 23

Subsection (2) was substituted, as from 21 October 1982, by section 13 Mutual Insurance Amendment Act 1982 (1982 No 30).

33 The seal

The Board shall provide for the safe custody of the seal, which shall only be used by the authority of the directors, and every instrument (not being a policy) to which the seal is affixed shall be signed by a director and shall be countersigned by the secretary or by a second director or by some other person appointed by the Board for the purpose.

Financial provisions

34 Liabilities of association and members

(1) All the property and assets of the association, including amounts due under premium notes, shall be available to meet

the liabilities of the association whether arising under policies or contracts of insurance or otherwise.

(2) No member of the association shall be liable in respect of any loss covered by any policy or contract of insurance or other claim or demand against the association otherwise than upon and to the extent of the amount unpaid upon his premium note.

Compare: 1908 No 125 ss 50, 51

35 Reserve fund

(1) The association shall form a reserve fund and shall transfer to that fund the profits (if any) resulting from the association's business operations in each financial year after paying or providing for the ordinary expenses and losses of the association.

(2) In order to form or augment the reserve fund, the Board may make a call upon the amounts due under premium notes:
Provided that only one such call may be made in any financial year and no such call shall relate to more than one-quarter of the total amount due under all premium notes at the time of the making of the call.

(3) If and in so far as in any financial year the liabilities and expenses of the association cannot be paid or provided for out of the ordinary revenue of the association or of any money borrowed or of the proceeds of any calls made upon members in respect of the amount remaining unpaid upon their premium notes, those liabilities and expenses shall be paid or provided for out of the reserve fund.

(4) Money forming part of the reserve fund may be invested in any securities authorised by or under the Trustee Act 1956 or any other Act for the investment of trust funds, or may remain in a bank on fixed deposit or in a current account.

(5) Without restricting the provisions of subsection (4) of this section it is hereby declared that money forming part of the reserve fund may from time to time be invested in stock or shares or debentures or notes, whether the notes are registered or unregistered, and whether or not they convey the right to conversion to shares, of any company, whether incorporated in New Zealand or elsewhere, if—

(a) the exercise of the power of investment conferred by this subsection has been authorised by an unrevoked special resolution (as defined in subsection (2) of section 8 of this Act) of the association; and

(b) the stock or shares or debentures or notes are quoted on the official list of a registered exchange (within the meaning of section 2(1) of the Securities Markets Act 1988; and

(c) the total of the money invested under the authority of this subsection does not exceed one-quarter of the amount of the reserve fund.

Compare: 1908 No 125 ss 29, 52

In subsection (4) the Trustee Act 1956, being the corresponding enactment in force, has been substituted for the repealed Trustee Act 1908.

Subsection (5) was inserted, as from 16 October 1964, by section 3 Mutual Insurance Amendment Act 1964 (1964 No 14).

Subsection (5)(b) was amended, as from 1 December 2002, by section 30 Securities Markets Amendment Act 2002 (2002 No 44) by substituting the words "a registered exchange (within the meaning of section 2(1) of the Securities Markets Act 1988" for the words "any stock exchange in New Zealand".

36 Borrowing of money

(1) The association may borrow money for such period and upon such conditions as may be agreed upon, and may give security for any money so borrowed over the whole or any part of its assets, including premium notes.

(2) Money shall not be so borrowed except for the purpose of paying ascertained liabilities under policies or contracts of insurance and the ordinary expenses incidental to the running of the association's business or for the purpose, either solely or jointly with any other person or association, of acquiring land or any interest in land or of erecting or altering or improving a building or structure or part of a building or structure, or for the purpose of purchasing, taking up, subscribing for, or otherwise acquiring shares which the association is empowered to hold pursuant to section 11B of this Act; and the amount for the time being owing by an association in respect of money borrowed by it for purposes other than acquiring such land or any interest in such land or erecting or altering or improving any such building or structure or any part thereof as aforesaid or

purchasing, taking up, subscribing for, or otherwise acquiring any such shares, shall not exceed half of the amount remaining unpaid upon the premium notes of the association:

Provided that no person from whom the association proposes to borrow money shall be concerned to see that the provisions of this subsection are complied with, and the rights of any person lending money to the association without actual notice of any infringement of those provisions shall be determined without regard to those provisions.

Compare: 1908 No 125 s 30

The original subsection (2) was amended, as from 23 October 1963, by section 2(3) Mutual Insurance Amendment Act 1963 (1963 No 103) by inserting the words "or the association and any tenant in common with it intend to have offices for the transaction of their respective businesses", by inserting the words "or any estate or interest therein as tenant in common", and by inserting the words "as aforesaid".

The original subsection (2) was further amended, as from 13 December 1968, by section 3(3) Mutual Insurance Amendment Act 1968 (1968 No 96) by inserting the words "or for the purpose of purchasing, taking up, subscribing for, or otherwise acquiring shares which the association is empowered to hold pursuant to section 11B of this Act", and by inserting the words "or purchasing, taking up, subscribing for, or otherwise acquiring any such shares".

Subsection (2) was substituted, as from 21 October 1982, by section 14 Mutual Insurance Amendment Act 1982 (1982 No 30).

37 Accounts

(1) The Board shall cause proper books of account to be kept in which shall be kept full, true, and complete accounts of the affairs and transactions of the association.

(2) The books of account shall be kept at the principal place of business of the association, or at such other place or places as the Board thinks fit, and shall always be open to the inspection of any director.

(3) The Board shall as soon as possible after the end of each financial year cause to be prepared and to be laid before the association in general meeting a profit and loss account for that year, a balance sheet as at the end of that year, and a report of the activities of the association for that year.

(4) A copy of every such profit and loss account, balance sheet, and report which is to be laid before the association in general meeting, together with a copy of the auditor's report, shall be sent to each member if the Board so resolves, but otherwise

shall be presented to each member attending the general meeting and shall be supplied to any other member upon request made before or within 3 months after the date of the general meeting.

Compare: 1908 No 125 s 8

38 Audit

(1) The association shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

(2) The provisions of sections 196 to 207 of the Companies Act 1993 shall apply to each association as if it were a company registered under that Act.

A reference to "sections 163, 165, and 166 of the Companies Act 1955" in the original subsection (2) was substituted, as from 1 January 1957, for a reference to "sections 139, 140, and 141 of the Companies Act 1933" pursuant to section 474(1) Companies Act 1955 (1955 No 63).

Subsection (2) was substituted, as from 1 July 1994, by section 2 Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

39 Annual statement and inquiries by chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

(1) The manager or secretary of the association shall annually, within 3 months after the end of each financial year, prepare and forward to the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act a statement of the business of the association in that financial year and the financial position of the association at the close of that financial year.

(2) Every such statement shall be in such form as may be prescribed by the Governor-General by Order in Council, or if not so prescribed then as the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act may require and shall be certified by the association's auditor. Any Order in Council or direction by the chief executive of the department of State that, with the authority of the Prime

Minister, is for the time being responsible for the administration of this Act under this section may provide that the statement shall include separate figures and information relating to employers' liability insurance business, or personal accident insurance business, or any other kind of insurance business carried on by the association.

(3) The association shall further, when required, make prompt and explicit answer in reply to any inquiries in relation to its transactions and financial position which may be made by the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act.

Compare: 1908 No 125 ss 56, 57(1)

Section 39 was amended, as from 25 November 1977, by section 7 Mutual Insurance Amendment Act 1977 (1977 No 74) by substituting the words "Secretary for Justice" for the words "Public Trustee".

Section 39 was further amended, as from 1 October 1995, by section 10(3) Department of Justice (Restructuring) Act 1995 (1995 No 39) by substituting the words "chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act" for the words "Secretary for Justice".

40 Offences

(1) The manager and secretary of any association shall each commit an offence against this section if, at any time while he is the holder of that office,—

(a) a statement of the business of the association in any financial year is not prepared and forwarded to the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act as required by section 39 of this Act; or

(b) prompt and explicit answer is not made in reply to any inquiries made by the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act under section 39 of this Act; or

(c) any person who is not eligible for membership of the association under section 3 of this Act is admitted as a member of the association after the commencement of this Act; or

(d) the association grants after the commencement of this Act any insurance cover which it is not for the time being authorised to grant.

(2) Every person who commits an offence against this section shall be liable on summary conviction to a fine not exceeding $40.

Compare: 1908 No 125 s 57(2)

Subsection (1)(a) and (b) was amended, as from 25 November 1977, by section 7 Mutual Insurance Amendment Act 1977 (1977 No 74) by substituting the words "Secretary for Justice" for the words "Public Trustee".

Subsection (1)(a) and (b) was further amended, as from 1 October 1995, by section10(3) Department of Justice (Restructuring) Act 1995 (1995 No 39) by substituting the words "chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act" for the words "Secretary for Justice".

Miscellaneous

41 Synopsis of business of associations

The chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act shall publish in the *Gazette*, on or as soon as possible after the 1st day of July in each year, a synopsis of the business of each association doing business in New Zealand.

Compare: 1908 No 125 s 58

Section 41 was amended, as from 25 November 1977, by section 7 Mutual Insurance Amendment Act 1977 (1977 No 74) by substituting the words "Secretary for Justice" for the words "Public Trustee".

Section 41 was further amended, as from 1 October 1995, by section 10(3) Department of Justice (Restructuring) Act 1995 (1995 No 39) by substituting the words "chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act" for the words "Secretary for Justice".

42 Costs incurred by chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act and his remuneration

(1) Any costs incurred by the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act

in giving effect to the provisions of sections 40 and 41 of this Act, and reasonable remuneration for his services in doing so, shall be defrayed by the association concerned.

(2) The amount of the remuneration payable to the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act under this section shall be as may be agreed upon between the chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act and the association, or (failing agreement) as shall be fixed by the Minister either generally or in any particular case.

Compare: 1908 No 125 s 59

Subsections (1) and (2) were amended, as from 25 November 1977, by section 7 Mutual Insurance Amendment Act 1977 (1977 No 74) by substituting the words "Secretary for Justice" for the words "Public Trustee".

Subsections (1) and (2) were further amended, as from 1 October 1995, by section 10(3) Department of Justice (Restructuring) Act 1995 (1995 No 39) by substituting the words "chief executive of the department of State that, with the authority of the Prime Minister, is for the time being responsible for the administration of this Act" for the words "Secretary for Justice".

43 Liquidation

Parts 16 and 17 of the Companies Act 1993 shall apply with such modifications as may be necessary to associations as if they were companies formed and registered under that Act.

Compare: 1908 No 125 s 60

A reference to "Part 6 of the Companies Act 1955" in the original section 43 was substituted, as from 1 January 1957, for a reference to "Part 6 of the Companies Act 1933" pursuant to section 474(1) Companies Act 1955 (1955 No 63).

Section 43 was substituted, as from 1 July 1994, by section 2 Company Law Reform (Transitional Provisions) Act 1994 (1994 No 16).

43A Overseas business

Sections 22A to 22I and 26 of the Insurance Companies' Deposits Act 1953 apply to certain business in New Zealand and overseas.

Section 43A was inserted, as from 22 November 2006, by section 10(2) Insurance Companies' Deposits Amendment Act 2006 (2006 No 66).

44 Regulations

(1) The Governor-General may from time to time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the general power to make regulations conferred by subsection (1) of this section, regulations may be made under that subsection for all or any of the following purposes:

- (a) providing for the establishment of special divisions of an association to deal with particular classes of insurance business:
- (b) providing that all premiums and other money received on account of a special division shall be deposited in or credited to a separate account:
- (c) prescribing the matters in respect of which payments may be made from any separate account:
- (d) authorising the creation of a separate reserve fund in respect of any such special division:
- (e) providing that the assets of a special division (including any reserve fund in respect thereof) shall not be available except for the purpose of the business of that division:
- (f) authorising payments or advances from the association's general reserve fund if the assets of a special division are not sufficient to provide for all lawful claims and expenses payable by the association in respect of that division.

(3) Any regulations made under this Act may apply generally in respect of all associations or may apply only to any specified association or associations, or may apply to all associations except any specified association or associations.

(4)

Subsection (4) was repealed, as from 19 December 1989, by section 11 Regulations (Disallowance) Act 1989 (1989 No 143).

45 Repeals, amendments, and savings

(1) The enactments specified in Schedule 3 to this Act are hereby repealed.

(2) This subsection amended clause 3 of Schedule 1 to the Insurance Companies' Deposits Act 1953.

(3) Every reference in the Insurance Companies' Deposits Act 1953 and in any other enactment or document to a mutual fire insurance association shall be read as a reference to a mutual insurance association.

(4) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provision so repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the repeal and could have been made or done under this Act shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force when the document was made or the thing was done.

Schedule 1

s 2

Existing associations

- The Taranaki Farmers' Mutual Fire Insurance Association.
- The Wellington Farmers' Union Mutual Fire Insurance Association.
- The Otago Farmers' Union Mutual Fire Insurance Association.

Schedule 2

ss 2, 18(5)

Premium note

I hereby undertake to pay to the Mutual Insurance Association, if and in so far as I may be called upon so to do before this note becomes void in accordance with the provisions of the Mutual Insurance Act 1955, the sum of .

I understand that, in addition to making myself liable for such calls as may be made upon me under this note, I shall have to pay cash premiums for any insurance covers granted to me by the Association.

Signature:
Address:
Date:

Schedule 3

s 45(1)

Enactments repealed

The Mutual Fire Insurance Act 1908 (1908, No 125)

The Mutual Fire Insurance Amendment Act 1913 (1913 No 39)

The Mutual Fire Insurance Amendment Act 1925 (1925 No 29)

The Mutual Fire Insurance Amendment Act 1934 (1934 No 9)

The Finance Act (No 2) 1943 (1943, No 9)

The Statutes Amendment Act 1948 (1948 No 77)

Schedule 4

s 29B

Forms of proxy

Schedule 4 was inserted, as from 21 October 1982, by section 15 Mutual Insurance Amendment Act 1982 (1982 No 30).

Form 1
General form

[*Name of Association*]

I/we, , of , , being a member/members of the above-named association, hereby appoint , of as my/our proxy to vote for me/us on my/our behalf at the [*annual or*

Form 1—*continued*

extraordinary, as the case may be] general meeting of the association to be held on the day of 19 , and at any adjournment thereof.

Signature:

Form 2
Form in relation to a resolution

[*Name of Association*]

I/we, , of , , being a member/members of the above-named association, hereby appoint , of , , or failing him, , of , , as my/our proxy to vote for me/us on my/our behalf at the [*annual or extraordinary, as the case may be*] general meeting of the association to be held on the day of 19 , and at any adjournment thereof.

Signature:

**This form is to be used †in favour of/against the resolution.
*Unless otherwise instructed, the proxy will vote as he thinks fit.
†Strike out whichever is not desired.

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1 General
2 About this eprint
3 List of amendments incorporated in this eprint (most recent first)

Notes

1 General

This is an eprint of the Mutual Insurance Act 1955. The eprint incorporates all the amendments to the Act as at 7 March 2012. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the eprint are also included, after the principal enactment, in chronological order.

2 About this eprint

This eprint has not been officialised. For more information about eprints and officialisation, please *see* http://www.pco.parliament.govt.nz/eprints/.

3 List of amendments incorporated in this eprint (most recent first)

Insurance (Prudential Supervision) Act 2010 (2010 No 111): section 240(c)

Disability (United Nations Convention on the Rights of Persons with Disabilities) Act 2008 (2008 No 64): section 11