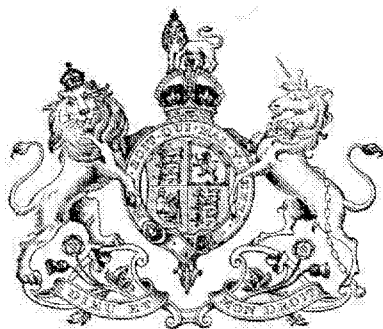


New Zealand.

## MUTUAL FIRE INSURANCE.

1908, No. 125.

AN ACT to consolidate certain Enactments of the General Assembly relating to the Establishment of Mutual Fire Insurance Associations.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. (1.) The Short Title of this Act is "The Mutual Fire Insurance Act, 1908." Short Title.

(2.) This Act is a consolidation of the enactments mentioned in the First Schedule hereto, and with respect to those enactments the following provisions shall apply:— Enactments consolidated.

(a.) Every association incorporated under any of the said enactments, and subsisting on the coming into operation of this Act, shall be deemed to be incorporated under this Act without change of corporate entity or otherwise, and every regulation or by-law made by any such association, and so subsisting, shall be deemed to be made under this Act. Savings.

(b.) All matters and proceedings commenced under any such enactment, and pending or in progress on the coming into operation of this Act, may be continued, completed, and enforced under this Act.

2. Whenever one hundred or more persons, being the owners or occupiers of farm or isolated property, have subscribed their names to a declaration that they have thereby bound themselves to form a Mutual Fire Insurance Association for the purpose of mutual insurance against loss or damage by fire, and to effect insurance in the said association against loss or damage by fire to the amount in the aggregate of not less than forty thousand pounds (which declaration shall state the

Formation of association.  
1903, No. 86, sec. 2  
1905, No. 7, secs. 2, 3

Governor may grant warrant after publication.

name of the association and the place where its business will be conducted), and have filed such declaration in duplicate, one copy with the Public Trustee, and the other with the Registrar or Assistant Registrar of Companies in the district in which the place of business of the association is to be situate, the Governor in Council may, notwithstanding anything contained in "The Companies Act, 1908," or any other Act, upon the application of a secretary *ad interim* of such association, to be chosen by ten or more of such subscribers at their first meeting, to be held after ten days' notice given in a newspaper circulating in the district in which the place of business of the association is to be established, grant a warrant authorising such subscribers to constitute themselves, together with such others as may thereafter join with them, an association under the provisions herein contained, which warrant shall state the name or designation of the said association and the place of business thereof.

How meeting to be called.  
1903, No. 85, sec. 3

3. As soon as convenient after such warrant is obtained, the said secretary shall call a first general meeting of the association at the place so designated as the place of its business, and of which at least ten days' notice shall be given by notice posted to each subscriber at his post-office address, or by advertisement in a newspaper circulating in the district in which the business of the association is to be conducted.

Name and membership of association.  
Office, &c.  
Ibid, sec. 4  
1905, No. 7, sec. 3

4. (1.) At such meeting the name of the association (of which the word "Mutual" shall form a part) shall be formally adopted, as also the place of the office of the association, and thereupon a copy of the resolutions adopting such name and place of business, certified under the hand of the secretary *ad interim*, shall be filed with the Registrar or Assistant Registrar of Companies of the district within which such place of business is situate; and upon the filing of such copy of the resolutions the several subscribers above mentioned, and all other persons thereafter effecting insurances therein, shall be and become members of the said association, and shall be a body corporate by and under the name so adopted, which shall not thereafter be changed.

Fee for registration.

(2.) The Registrar or Assistant Registrar of Companies shall be entitled to charge a fee of not more than five pounds for any filing under this section.

(3.) The corporate powers of the association shall be forfeited by non-user, or discontinuance of business, or by suspension or cancellation of license.

Election of directors.  
1903, No. 85, sec. 5

5. At such meeting a Board of Directors (hereinafter called "the Board") shall be elected, chosen from among the subscribers; such Board to consist of not less than five nor more than nine; and no subscriber shall be elected as a director unless he is a subscriber for insurance to at least two hundred pounds.

Power to admit members.  
Ibid, sec. 6  
1905, No. 7, sec. 2

6. The association may admit as a member thereof the owner or occupier of any farm or isolated property, movable or immovable, and may insure the same; and every person admitted a member of the association by such insurance shall be entitled to the like rights and be subject to the like liabilities as other members of the association:

Provided that it shall not be competent for the association to insure the property of persons who are not members of the association.

7. A meeting of members for the election of directors and auditors shall be held in every year, at such time and place as may be prescribed by the by-laws or resolutions of the association.

Annual meeting for election of directors. 1903, No. 86, sec. 7

8. At each annual meeting, in addition to the election of directors and auditors, a report of the transactions of the association for the year ended on the last day of the month last preceding the date of such meeting shall be presented and read, together with a full and unreserved statement of its affairs, exhibiting receipts and expenditure, assets and liabilities.

Annual report and statement. Ibid, sec. 8

9. All annual or special meetings of members of the association shall be convened by inserting in one or more newspapers circulating in the district wherein the registered office of the association is situate, in one number thereof in each of two consecutive weeks, or by sending by post, a notice signed by the secretary or manager of the association that on some date to be named therein, not to be earlier than fourteen days after the date of the first insertion or postage as aforesaid, and at the hour and place to be therein stated, such meetings shall be held.

Notice of meetings. Ibid, sec. 9

10. Each member of the association shall be entitled, at all meetings of the association at which he is present, to the number of votes proportioned to the amount by him insured, according to the following scale, that is to say: For any sum under two hundred and fifty pounds, one vote; from two hundred and fifty pounds to five hundred pounds, two votes; from five hundred pounds to one thousand pounds, three votes; and one vote for every additional thousand pounds: but no member shall be entitled to vote while in arrears for any assessment due by him to the association.

Members to have votes proportionate to their insurance. Ibid, sec. 10

11. The election of directors shall be held and made by such members of the association as attend for that purpose in their own proper persons:

Election of directors. Ibid, sec. 11 1905, No. 7, sec. 4

Provided that the number of members so attending shall not be less than ten.

12. The election of directors shall be by ballot.

Mode of election. 1903, No. 86, sec. 12

13. If at any such election two or more members have an equal number of votes, then the members of the association shall proceed to elect by ballot until it is determined which of the persons so having an equal number of votes shall be the director or directors, so as to complete the whole number of directors to be elected.

Provisions in case of tie. Ibid, sec. 13

14. The directors shall be members of the association and insurers therein, for the time they hold office, to the amount of two hundred pounds at least.

Qualification of directors. Ibid, sec. 14

15. No agent, or paid officer, or person in the employment of the association, other than the manager, shall be eligible to be elected a director, or shall be allowed to interfere in the election of directors of the association.

Certain persons not eligible to be elected directors. Ibid, sec. 15

16. Three directors shall constitute a quorum for the transaction of business.

Quorum of directors. Ibid, sec. 16

17. Any director disagreeing with the majority of the Board at any meeting may have his dissent recorded, with his reasons therefor.

Recording dissent of directors. Ibid, sec. 17

Vacancies, how filled up.  
1903, No. 86, sec. 18

18. If any vacancy happens among the directors during the term for which they have been elected, by death, resignation, ceasing to have the necessary qualification under the provisions aforesaid, bankruptcy, or by being absent without previous leave of the Board from three regular meetings of the Board in succession (any which event shall *ipso facto* create such vacancy), such vacancy shall be filled up for the remainder of the term, and as soon as may be after the vacancy occurs, by the election by the remaining directors of a duly qualified person to fill the same.

Provisions in case of failure of election of directors on proper day.  
Ibid, sec. 19

19. Where an election of directors is not made on the day on which it ought to have been made, the association shall not for this cause be dissolved, but the election may be held on any subsequent day, at a meeting to be called by the directors for that purpose, or as is otherwise provided by the by-laws of the association; and in such case the directors shall continue to hold office until their successors are elected.

Election of chairman.  
Ibid, sec. 20

20. The directors shall, at their first meeting after any such election, proceed to elect by ballot from among themselves a chairman, and at such election the secretary shall preside.

Appointment of manager and other officers.  
Ibid, sec. 21

21. The Board may from time to time appoint a manager (who may be a director also), a secretary, a treasurer, and such other officers, agents, or assistants as they deem necessary, prescribe their duties, fix their salaries, compensations, or allowances, take such security from them as may be required for the faithful performance of their respective duties, or may remove them and appoint others instead.

Tariff of rates.  
Ibid, sec. 22

22. The Board may also adopt a tariff of rates for insurance, and vary the same from time to time, and determine the sum to be insured on any property.

Meetings of Board.  
Ibid, sec. 23

23. The Board may hold its meetings monthly, or oftener if necessary, for transacting the business of the association.

Record of proceedings.  
Ibid, sec. 24

24. The Board shall keep a record of its proceedings.

Board may pass by-laws.  
Ibid, sec. 25

25. The Board may from time to time make such by-laws as it deems needful and proper respecting the funds and property of the association, the duties of the officers, agents, and assistants thereof, the effectual carrying-out of the objects contemplated by the association, the holding of the annual meeting, and such other matters as appertain to the business of the association and are not contrary to law:

Alter and amend by-laws.

Provided that every by-law and every repeal, amendment, or re-enactment thereof shall be confirmed at a general meeting of the association duly called for that purpose.

Board to manage property of association.  
Ibid, sec. 26  
Reinsurance.  
Ibid, sec. 27

26. The Board shall superintend and have the management of the funds and property of the association, and of all matters relating thereto not otherwise provided for.

27. The Board may make arrangements with any insurance company for the reinsurance of risks on such conditions with respect to the payment of premiums thereon as may be agreed between them.

Withdrawal of members.  
Ibid, sec. 28

28. Any member of the association may, with the consent of the Board, withdraw therefrom, upon such terms as the Board may require.

Investment of capital funds.  
Ibid, sec. 29

29. The Board may invest the capital and funds of the association in mortgages on real estate, debentures of any local body, or in the public securities of New Zealand.

30. The Board may borrow money for such period and on such conditions as it deems expedient; the whole of the assets, including premium notes of the association, being held liable to pay the same:

Directors may borrow money. 1903, No. 86, sec. 30

Provided that the money so borrowed shall only be for the purpose of paying ascertained fire losses, and shall not exceed one-half the amount remaining unpaid upon the premium notes of the association.

31. Subject to the provisions of section six hereof, the association may insure isolated buildings, also household furniture, merchandise, machinery, farm-produce, and other commodities contained in such buildings, against damage or loss by fire, whether the same happens by accident or by any other means, except that of design on the part of the insured, or by the invasion of an enemy, or by insurrection.

Property which may be insured. Ibid, sec. 31

32. The association may effect insurance upon the premium-note principle for a period not exceeding five years, but only on farm and other non-hazardous property, and the minimum of such premium notes shall not be less than one per centum per annum on the amount of the insurance effected, and the amount of the premium note shall in each case be in proportion to the tariff-rate prescribed for such insurance.

Insurance on premium-note principle. Ibid, sec. 33

33. The association may issue policies of insurance for any term not exceeding five years.

Term of policy. Ibid, sec. 33

34. No policy of insurance shall be issued by the association until applications have been made for insurance to the extent of at least forty thousand pounds, and approved by the Board.

When policies may issue. Ibid, sec. 34

35. Any policy may be renewed at the discretion of the Board by a renewal receipt instead of a new policy on the insured giving his premium note or undertaking therefor.

Renewing policies. Ibid, sec. 35

36. All policies of insurance issued by the Board, sealed with the seal of the association, signed by the chairman, and countersigned by the secretary or acting-secretary, shall be binding on the association:

Mode of executing policies. Ibid, sec. 36

Provided that any misrepresentation contained in the application therefor, or any false statement respecting the title or ownership of the applicant or his circumstances, or the concealment of any incumbrance on the insured property or on the land on which it may be situate, or the failure during the currency of the policy to notify the association of any change in the title, ownership, or incumbrance of the insured property and to obtain the written consent thereto, shall render the policy void, and no claim for loss shall be recoverable thereunder unless the Board in its discretion sees fit to waive the defect.

Proviso in case of fraud.

37. If the policy is cancelled or avoided by the association, the liability of the insured on his premium note or undertaking shall cease from the date of such cancellation or avoidance on account of any loss that may occur to the association thereafter, but the party insured shall nevertheless be liable to pay his proportion of the losses and expenses of the association to the time of cancelling or avoiding the policy, and, on payment of his proportion of all assessments then payable and to become payable in respect of losses and expenses sustained up to such period, shall be entitled to a return of his premium

Liability of premium note on cancellation of policy. Ibid, sec. 37

note or undertaking, and such proportion of the premium paid by him as has not been absorbed by the losses and expenses of the association up to such period, and a condition to this effect shall be indorsed on the policy.

Effect of  
cancellation on  
account of  
alienation,  
assignment, &c.  
1903, No. 86, sec. 38

38. If the association becomes entitled to avoid a policy for alienation or partial alienation of the insured property, or of any interest therein, upon the return of the policy to the association to be cancelled, unless the Board elects to continue the same, the assured shall be entitled to receive his premium note or notes upon payment of his proportion of all losses and expenses accrued prior to such surrender, but the assignee may have the policy transferred to him; and upon application to the Board such assignee on giving proper security to the Board's satisfaction for such portion of the premium note or undertaking as remains unpaid, and with the Board's consent within thirty days next after such alienation, may have the policy ratified and confirmed to him; and by such ratification and confirmation such assignee shall be entitled to all the rights and privileges and be subject to all the liabilities and conditions to which the original party insured was entitled and subject:

Provided that where the assignee is a mortgagee the Board may permit the policy to remain in force, and to be transferred to him by way of additional security, without requiring any premium note or undertaking from such assignee, or without his becoming in any manner personally liable for premiums or otherwise, but in such cases the premium note or undertaking and liability of the mortgagor in respect thereof shall continue and be in no wise affected.

Association may  
accept premium  
notes.  
Ibid, sec. 39

39. The association may accept premium notes in the form prescribed in the Second Schedule hereto, or may accept the undertaking of the insured for insurances, and may issue policies thereon, the said notes or undertakings to be assessed for the losses and expenses of the association in manner hereinafter provided.

Part payment with  
application.  
Ibid, sec. 40

40. The Board shall demand a first payment on the premium note or undertaking at the time that application for insurance is made; and such payment shall be credited upon the premium note or undertaking, or against future assessments.

Assessment upon  
premium notes.  
Ibid, sec. 41

41. The Board may make assessments upon premium notes before losses have happened or expenses been incurred, and any surplus from any such assessments shall become part of the reserve fund.

Assessment of  
premium notes.  
Ibid, sec. 42

42. All premium notes and undertakings belonging to the association shall be assessed under the direction of the Board at such intervals and for such sums as the Board determines, and for such further sums as it thinks necessary to meet the losses and other expenditure of the association during the currency of the policies for which the said notes or undertakings were given, and in respect to which they are liable for assessment; and every member of the association or person who has given a premium note or undertaking shall pay the sums from time to time payable by him to the association during the continuance of his policy, in accordance with such assessment; and any such assessment shall become payable in thirty days after notice of such assessment has been posted to such member or person who has given the premium note or undertaking, directed

Notice to be given  
of the assessment.

to his post-office address, as given in his original application or in writing to the secretary of the association.

43. If the assessment on the premium note or undertaking upon any policy is not paid within thirty days after the day on which the said assessment becomes due, the policy of insurance for which such assessment has been made shall be null and void, as respecting all claims for losses occurring during the time of such non-payment:

Policy void if nota not paid in thirty days.

1903, No. 86, sec. 43

Provided that the said policy shall be renewed when such assessment has been paid, unless the secretary gives notice to the contrary to the assessed party in the manner herein provided; but nothing shall relieve the assured party from his liability to pay such assessment or any subsequent assessments, nor shall such assured party be entitled to recover the amount of any loss or damage which may happen to property insured under such policy while such assessment remains due and unpaid, unless the Board in its discretion decides otherwise.

May be renewed by subsequent payment.

44. A notice of assessment upon any premium note or undertaking posted as aforesaid shall be deemed sufficient if it embodies the number of the policy, the period over which the assessment extends, the amount of the assessment, and the time when and the place where payable.

Notice of assessment.

Ibid, sec. 44

45. The assessment upon any premium notes or undertakings shall always be in proportion to the amount of such notes or undertakings.

How assessments proportioned.

Ibid, sec. 45

46. If, for thirty days after notice of assessment has been posted to him in manner aforesaid, any member or other person who has a liability with respect to a premium note or undertaking neglects or refuses to pay such assessment, the association may sue for and recover the same with costs, and such proceeding shall not be a waiver of any forfeiture incurred by such non-payment.

Association may sue for assessment.

Ibid, sec. 46

47. Where an assessment is made on any premium note or undertaking given to the association for any risk taken, or as a consideration for any policy of insurance issued by the association, and an action is brought to recover such assessment, the certificate of the secretary specifying such assessment, and the amount due to the association on such note or undertaking by means thereof, shall be taken and received as *prima facie* evidence thereof in any Court.

Secretary's certificate *prima facie* evidence.

Ibid, sec. 47

48. Forty days after the expiration of the term of insurance the premium note or undertaking given for such insurance shall, on application therefor, be given up to the signer thereof, provided all losses and expenses with which such note or undertaking may be chargeable have been paid.

When premium note to be returned,

Ibid, sec. 48

49. If there is any loss on property insured by the association, the Board when paying the insurance thereon may retain thereout the amount of the premium note or undertaking given for insurance of such property until the time has expired for which insurance has been made, and at the expiration of such time the insured shall have the right to demand and receive such part of the retained sum as, having been assessed for, has not been paid.

Directors may retain amount of premium note in case of loss.

Ibid, sec. 49

50. No member of the association shall be liable in respect of any loss or other claim or demand against the association otherwise than upon and to the extent of the amount unpaid upon his premium note or undertaking.

Liability of members.

Ibid, sec. 50

Property liable.  
1903, No. 86, sec. 51

51. All the property and assets of the association, including premium notes or undertakings, shall be liable for all losses which may arise.

Reserve Fund.  
Ibid, sec. 52

52. The association shall form a reserve fund, to consist of moneys remaining on hand at the end of each year after payment of the ordinary expenses and losses of the association; and for that purpose the Board may levy an annual assessment, not exceeding twenty-five per centum on the premium notes or undertakings held by the association, and such annual assessment may be made in advance; and such reserve fund may from time to time be applied by the directors to pay off such liabilities of the association as may not be provided for out of the ordinary receipts for the same or any succeeding year:

How composed.

How applied.

How invested.

Provided that such reserve fund shall be invested either in mortgages on real estate, or in debentures of any local body, or in the public securities of New Zealand, or may remain in a bank on deposit.

Treasurer to give security.  
Ibid, sec. 53

53. The treasurer or other officer having charge of the money of the association shall give security, to the satisfaction of the Board, in a sum of not less than four hundred pounds, for the faithful discharge of his duties.

Changing office of association.  
Ibid, sec. 54

54. The location of the office of the association shall only be changed by a three-fifths vote of the members of the association at a general meeting or a special meeting called for that purpose.

Lands that may be held by the association.  
Ibid, sec. 55

55. The association may hold lands, but such lands only as are requisite for the accommodation of the association in relation to the transaction of its business, or such lands as have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts contracted in the course of its dealings previously to conveyance, or purchased at sales upon judgments obtained for such debts; and may from time to time sell, mortgage, and convey or lease any such lands.

Annual statement.  
Ibid, sec. 56

56. The manager or secretary of the association transacting business shall annually, on the first day of April, or within three months thereafter, prepare and deposit in the office of the Public Trustee a statement of the condition of the association on the thirty-first day of March then next preceding, exhibiting the following facts and items in the following form, namely:—

What statement shall contain.

Assets.

First, the assets of the association, specifying—

- (a.) The value of real estate;
- (b.) The amount of cash on hand and deposited in banks to the credit of the association, naming the banks and the amount in each;
- (c.) The amount of cash in the association's office and in agents' hands respectively;
- (d.) The amount of any loans or investments, and the nature of the security held therefor, in detail, and what (if any) payments are in arrear thereon;
- (e.) The amount of assessments on premium notes or undertakings on hand;
- (f.) The amount still payable upon premium notes or undertakings on hand;



(g.) Other amounts due to the association :

Secondly, the liabilities of the association, specifying—

Liabilities.

(h.) The amount of losses due and yet unpaid ;

(i.) The amount of claims for losses resisted ;

(j.) The amount of losses incurred during the year, including those claimed but not adjusted ;

(k.) The amount payable for money borrowed, and security given, and interest payable ;

(l.) The amount of all other existing claims against the association ;

(m.) The amount covered by policies in force in respect of each class of risk :

Thirdly, the income of the association during the preceding year, specifying—

Income of previous year.

(n.) The amount of cash received on premium notes ;

(o.) The amount of premium notes or undertakings ;

(p.) The amount of interest received ;

(q.) The amount of income from all other sources ;

Fourthly, the expenditure during the preceding year, specifying—

Expenditure of previous year.

(r.) The amount of losses paid during the year, stating how much of the same accrued prior and how much subsequent to the date of the last preceding statement, and the amount at which such prior accrued losses were estimated in such preceding statement ;

(s.) The amount of expenses paid during the year ;

(t.) The amount of taxes ;

(u.) The amount paid for reinsurance ;

(v.) The amount of all other payments and expenditure, under their appropriate heads.

57. (1.) The association shall further, when required, make prompt and explicit answer in reply to any inquiries in relation to its transactions which may be required by the Public Trustee.

Inquiries by Public Trustee. 1903, No. 86, sec. 57

(2.) If the association fails to make and deposit such statement as required in the last preceding section, or to reply to such inquiry, its manager and secretary shall be subject respectively, for each offence, to a fine not exceeding ten pounds.

58. The Public Trustee shall publish in the *Gazette*, on or before the first day of July in each year, a synopsis of the business of each Mutual Fire Insurance Association doing business in New Zealand.

Public Trustee to publish synopsis of business of each association in the *Gazette*.

*Ibid*, sec. 58

59. Any costs incurred by the Public Trustee in giving effect to the provisions of the two last preceding sections shall be defrayed by each association concerned.

Costs incurred by Public Trustee.

*Ibid*, sec. 59

60. Part VI of "The Companies Act, 1908," providing for the winding-up of companies and associations shall be read with and form part of this Act.

Part VI of Companies Act, to apply.

*Ibid*, sec. 60

SCHEDULES.

FIRST SCHEDULE.

ENACTMENTS CONSOLIDATED.

1903, No. 86.—“The Mutual Fire Insurance Act, 1903.”

1905, No. 7.—“The Mutual Fire Insurance Act Amendment Act, 1905.”

SECOND SCHEDULE.

PREMIUM NOTE OR UNDERTAKING.

Section 39.  
1903, No. 86,  
Schedule.  
1905, No. 7, sec. 5

I HEREBY undertake to pay to the Policy No.  
Mutual Fire Insurance Association, at  
its office in \_\_\_\_\_, the sum of \_\_\_\_\_, in such proportions and at such times as  
shall be required by the Board of the said association. Any action which may  
be brought or commenced in any Court of competent jurisdiction in respect or on  
account of this note or undertaking, or any sum to be assessed thereon, may be  
brought and commenced against the maker hereof in the Court situate or exercising  
jurisdiction within the district wherein the Head Office or any agency of the asso-  
ciation is situate.

The fixed payments hereon I hereby undertake to pay as follows, and I hereby  
agree that if any of the said payments is not paid on or before the day herein  
appointed for the payment of the same the policy or contract of insurance shall  
*ipso facto* be absolutely void as against the said association:—

First fixed payment on the	day of	19	£	.
Second fixed payment on the	day of	19	£	.
Third fixed payment on the	day of	19	£	.
Fourth fixed payment on the	day of	19	£	.
Fifth fixed payment on the	day of	19	£	.

(Signature.)

(Address.)

Date: \_\_\_\_\_, 19 \_\_\_\_\_