

MUTUAL INSURANCE AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill makes a number of amendments to the Mutual Insurance Act 1955.

Clause 1 relates to the Short Title.

Clause 2 extends the definition of "isolated property" to include the contents of buildings belonging to a co-operative dairy company registered under the Co-operative Dairy Companies Act 1949.

Clause 3 amends section 3 (1) of the principal Act by providing that an employee of a 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, shall be eligible for membership of an association. The bodies corporate and organisations are themselves eligible for membership under the existing section.

Clause 4 substitutes a new section 11 in the principal Act in the place of the existing sections 11 and 11A. Under the new section an association may now acquire and dispose of land or any interest in land, or buildings without any of the restrictions which previously applied to the powers of an association in relation to land. An association may also mortgage land and enter into arrangements for the management and occupation of land.

Clause 5, which amends section 19 (4) of the principal Act, provides that interest recoverable by an association on the amount of any unpaid call due from a member on premium notes shall be at the rate prescribed from time to time under section 87 of the Judicature Act 1908. The current rate of interest prescribed under that Act is 11 percent.

Clause 6, which substitutes a new section 23 in the principal Act, does away with the requirement that policies of insurance issued by an association must be issued under seal. It is now provided that policies shall be signed by a person or persons appointed by the Board of Directors of the association and that policies so signed shall be valid in favour of any person acting in good faith, notwithstanding any defect in the appointment of the person signing.

Clause 7 does away with the requirement that advisory directors appointed to the Board of Directors of an association must be members of the association.

Clause 8, which amends section 30A (1) of the principal Act, provides that a special resolution is required for the adoption by an association of rules providing for the regional election of directors. At present such rules may be adopted by ordinary resolution.

Clause 9, which substitutes a new *paragraph (bb)* in section 31 (5) of the principal Act, empowers the Board of Directors of an association to exercise the powers vested in an association under the new *section 11* (which relates to land).

Clause 10, which substitutes a new *subsection (1)* in section 32 of the principal Act, provides that account shall not be taken of advisory directors appointed under section 31 (13) of the principal Act for the purposes of constituting a quorum.

Clause 11 substitutes a new *subsection (2)* in section 36 of the principal Act. The existing subsection (2) limits the borrowing powers of an association. In addition to borrowing money to pay ascertained liabilities under policies or contracts of insurance and ordinary expenses incidental to running its business, or to acquire shares which it is empowered to hold pursuant to section 11B of the principal Act, an association may borrow money to purchase land or erect, alter, or improve a building only if it is land or a building on or in which that association or any tenant in common with it intends or intend to have an office for business purposes. That qualification in relation to land and buildings is removed by this clause and an association is empowered to borrow money to acquire land and erect, alter, or improve buildings without such a restriction. The power to borrow to meet ascertained liabilities under policies or contracts of insurance and expenses incidental to the business of the association or to acquire such shares remains unchanged. It is still a requirement that the amount currently owing in respect of money borrowed to meet such ascertained liabilities and expenses shall not exceed half the amount unpaid on premium notes.

Clause 12 effects consequential repeals.

Hon. Mr McLay

MUTUAL INSURANCE AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Mutual Insurance Act 1955

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

1. **Short Title**—This Act may be cited as the Mutual Insurance Amendment Act 1982, and shall be read together with and deemed part of the Mutual Insurance Act 1955* (hereinafter referred to as the principal Act).
- 10 **2. Interpretation**—Section 2 of the principal Act is hereby amended by inserting in the definition of the term “isolated property”, after the word “buildings”, the words “and property that is usually kept therein”.

*1957 Reprint, Vol. 10, p. 615

Amendments: 1963, No. 103; 1964, No. 14; 1968, No. 96; 1971, No. 113; 1977, No. 74; 1978, No. 113

3. Qualification for membership of association—

Section 3 (1) of the principal Act is hereby amended by repealing paragraph (f) (as inserted by section 2 of the Mutual Insurance Amendment Act 1964), and substituting the following paragraphs:

“(f) Any employee of any such body corporate or other organisation: 5

“(g) The wife or husband of any member of the association and the widow or widower of any person who was a member of the association at his or her death.” 10

4. Powers of association in relation to land—The principal Act is hereby amended by repealing section 11 and section 11A (as inserted by section 2 (1) of the Mutual Insurance Amendment Act 1963), and substituting the following section: 15

“11. 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 20 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, 25 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, 30 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: 35

“(e) Mortgage or otherwise charge any land or any interest in land.”

5. Calls on premium notes—Section 19 of the principal Act is hereby amended by repealing subsection (4), and substituting the following subsection: 40

“(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 interest 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.”

6. Policies—The principal Act is hereby amended by repealing section 23, and substituting the following section:

“23. (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 appointed for the purpose by the Board.

“(2) Any policy issued by the association and signed by one or more persons (being directors or employees of the association) shall be valid in favour of any person acting in good faith, notwithstanding that any person who may have signed it may not have been appointed or authorised by the Board to do so.”

7. Board of Directors—Section 30 (13) (a) of the principal Act is hereby repealed.

8. Regional representation on Board of Directors—Section 30A (1) of the principal Act (as inserted by section 5 of the Mutual Insurance Amendment Act 1977) is hereby amended by omitting the words “ordinary resolution”, and substituting the words “special resolution passed in the manner prescribed by section 8 (2) of this Act”.

9. Powers and duties of the Board—Section 31 (5) of the principal Act is hereby amended by repealing paragraph (bb) (as inserted by section 2 (2) of the Mutual Insurance Amendment Act 1963), and substituting the following paragraph:

“(bb) To exercise any of the powers conferred on an association by section 11 of this Act:”.

10. Proceedings of the Board—Section 32 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(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.”

11. Borrowing of money—Section 36 of the principal Act is hereby amended by repealing subsection (2) (as amended by section 2 (3) of the Mutual Insurance Amendment Act 1963 and section 3 (3) of the Mutual Insurance Amendment Act 1968), and substituting the following subsection: 5

“(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 10 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 15 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, 20 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 25 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.”

12. Repeals—The following enactments are hereby 30 repealed:

- (a) The Mutual Insurance Amendment Act 1963:
- (b) Section 2 of the Mutual Insurance Amendment Act 1964:
- (c) Sections 2 and 3 (3) of the Mutual Insurance 35 Amendment Act 1968.