

NORTHERN TERRITORY OF AUSTRALIA
ADVANCE BANK INTEGRATION BILL 1997

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NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to provide for the merger of the Advance Bank of Australia Limited with St. George Bank Limited and for related purposes

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

PART 1 — PRELIMINARY

1. SHORT TITLE

This Act may be cited as the *Advance Bank Integration Act 1997*.

2. COMMENCEMENT

This Act comes into operation on the succession day.

3. PURPOSE

The purpose of this Act is to facilitate the integration of Advance Bank Australia Limited into St. George Bank Limited.

4. INTERPRETATION

(1) In this Act, unless the contrary intention appears —

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"ABAL" means Advance Bank Australia Limited (A.C.N. 002 953 335);

"asset" means property, or a right, of any kind, and includes -

- (a) any legal or equitable estate or interest (whether present or future, vested or contingent, tangible or intangible, in real or personal property of any kind;
- (b) any chose in action;
- (c) any right, interest or claim of any kind, including rights, interests or claims in or in relation to property (whether arising under an instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing); and
- (d) any asset within the meaning of Part IIIA of the *Income Tax Assessment Act 1936* of the Commonwealth;

"business", in relation to ABAL, includes the assets and liabilities of ABAL;

"chief executive officer", in relation to SGB, means the officer having the day to day management of the affairs of the bank and includes an officer acting from time to time in that capacity;

"NSW Regulation" means the *Bank Mergers (Advance Bank) Regulation 1997* made under the *Bank Mergers Act 1996* of New South Wales or, if that Regulation is amended, that Regulation as amended and in force for the time being;

"instrument" includes a document and an oral agreement;

"interest", in relation to land, includes -

- (a) a legal or equitable estate or interest in the land; and
- (b) a right, power or privilege over, or in relation to, the land;

"liability" includes a duty or obligation of any kind (whether arising under an instrument or otherwise, and whether actual, contingent or prospective);

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"SGB" means St. George Bank Limited (A.C.N. 055 513 070);

"succession day" means the day fixed under clause 3 of the NSW Regulation as the succession day for SGB and ABAL;

"translated asset", in relation to SGB, means an asset that has become, under the NSW Regulation, an asset of SGB;

"translated liability", in relation to SGB, means a liability that has become, under the NSW Regulation, a liability of SGB;

"translated instrument", in relation to ABAL, means an instrument (including a legislative instrument other than this Act or the NSW Regulation) subsisting immediately before the succession day —

- (a) to which ABAL is a party;
- (b) that was given to, by or in favour of, ABAL;
- (c) that refers to ABAL; or
- (d) under which money is, or may become, payable, or other property is, or may become, liable to be transferred, to or by ABAL.

(2) Where reference is made in this Act to anything done for a purpose connected with, or arising out of, the operation or effect of this Act, that reference is taken to include any transaction entered into, or any instrument or document made, executed, lodged or given for that purpose.

5. ACT BINDS CROWN

This Act binds the Crown not only in right of the Territory but, so far as the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

PART 2 — REORGANISATION

6. CONSEQUENCE OF SUCCESSION DAY

On the succession day under the NSW Regulation in accordance with the principle of succession in law —

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- (a) SGB becomes the successor in law of ABAL and is for all purposes a continuation of and the same legal entity as ABAL;
- (b) ABAL is liquidated and dissolved;
- (c) all assets of ABAL, wherever located, vest in, or are otherwise available for the use of, SGB without the need for any conveyance, transfer, assignment or assurance and without the need for any prior notice or further act;
- (d) all liabilities of ABAL, wherever located, become liabilities of SGB without the need for any prior notice or further act;
- (e) each translated instrument in respect of ABAL continues to have effect, according to its tenor, on and after the succession day, as if a reference in the instrument to ABAL were a reference to SGB;
- (f) on and after the succession day, a place that, immediately before that day, was a place of business for ABAL is taken to be a place of business for SGB; and
- (g) where, immediately before the succession day –
 - (i) proceedings (including arbitration proceedings) to which ABAL was a party were pending or existing in any court or tribunal, SGB is, on that day, substituted for ABAL as a party to the proceedings and has the same rights in the proceedings as ABAL had; and
 - (ii) documentary or other evidence would have been admissible for or against the interests of ABAL, that evidence is admissible, on or at any time after that day, for or against the interests of SGB.

7. NAME IN WHICH SGB CARRIES ON BUSINESS

- (1) SGB may carry on business in the Territory under any of the following names:
 - (a) Advance Bank Australia;
 - (b) Bank of South Australia;
 - (c) BankSA;

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(d) another name registered by SGB under the *Business Names Act*.

(2) "Advance Bank Australia", "Bank of South Australia" and "BankSA" must, on application by SGB, be registered as business names under the *Business Names Act*.

(3) For a period of 6 months beginning on the succession day, SGB may also carry on business in the Territory under either of the following names as if the names were registered as business names of SGB under the *Business Names Act*:

(a) "Advance Bank Australia Limited";

(b) "BankSA a Division of Advance Bank Australia Limited".

PART 3 — PAYMENT OF AMOUNT IN LIEU OF TERRITORY
TAXES AND CHARGES

8. PAYMENT OF AMOUNT IN LIEU OF TERRITORY TAXES AND CHARGES

(1) SGB must pay to the Treasurer a sum that, in the opinion of the Treasurer, is equal to the amount of taxes, duties and charges that SGB would have been liable to pay under the law of the Territory if the business of ABAL and any translated asset and translated liability had vested in SGB by way of a normal commercial transaction.

(2) The amount payable under subsection (1) is to be determined by the Treasurer in accordance with principles that the Treasurer thinks appropriate.

(3) The Treasurer may give a certificate to SGB when satisfied that the sum due under subsection (1) has been paid stating that the sum due under the subsection has been paid.

(4) Any obligation on SGB arising under an Act for the assessment or imposition of stamp duty, financial institution duty or debits tax —

(a) to lodge a statement or return relating to the vesting of the business of ABAL or any translated asset or any translated liability in SGB; or

(b) to include information about the vesting in a statement or return,

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ceases on payment of the amount determined under subsection (1).

- (5) This section does not apply to fees payable –
 - (a) to the Registrar-General in respect of an act, dealing or other transaction relating to land; or
 - (b) under the *Motor Vehicles Act* in respect of the transfer of a motor vehicle.
- (6) The sum payable under subsection (1) is a debt due and payable by SGB to the Territory.

PART 4 – MISCELLANEOUS

9. CERTIFICATES EVIDENCING OPERATION OF ACT, &C.

(1) The chief executive officer of SGB may, by certificate signed by that person, certify any matter in relation to the operation or effect of this Act and, in particular, may certify that –

- (a) a specified matter or thing relevant to SGB is an aspect of the operation or effect of this Act;
- (b) a specified thing was done for a purpose connected with, or arising out of, the operation or effect of this Act in relation to SGB;
- (c) a specified asset of ABAL has become a translated asset of SGB; or
- (d) a specified liability of ABAL has become a translated liability of SGB.

(2) The chief executive officer of SGB may certify that specified assets or liabilities are, or are not, assets or liabilities that vested in ABAL under the *Bank of South Australia (Merger with Advance Bank) Act*.

(3) A certificate under subsection (1) or (2) must be accepted in legal proceedings and by an administrative official as evidence of the matter certified.

(4) An apparently genuine document purporting to be a certificate under subsection (1) or (2) is, unless the contrary is established, to be taken to be the certificate.

(5) Nothing done by or under this Act or under the NSW Regulation affects the character that records made by

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ABAL or a bank from which ABAL acquired the records may have as banking records for the purposes of the law of evidence.

10. REGISTRATION OF TITLE, &C.

(1) The Registrar-General or other person required or authorised by law to register or record transactions affecting assets or liabilities -

- (a) may (without formal application) register or record in the appropriate way the vesting of a translated asset or translated liability; and
- (b) must, on written application by SGB, register or record in the appropriate way the vesting of a translated asset or translated liability.

(2) A transaction related to a translated asset or translated liability entered into by SGB in ABAL's name or the name of a predecessor in title to ABAL, if effected by an instrument otherwise in registrable form, must be registered even though SGB has not been registered as proprietor of the asset.

11. ACT HAS EFFECT DESPITE OTHER LAWS

(1) This Act has effect in spite of anything in any contract, deed, undertaking, agreement or other instrument.

(2) Nothing done by or under this Act or under the NSW Regulation -

- (a) places SGB, ABAL or another person in breach of contract or confidence or otherwise makes any of them guilty of a civil wrong; or
- (b) places SGB, ABAL or another person in breach of -
 - (i) any law of the Northern Territory; or
 - (ii) any contractual provision prohibiting, restricting or regulating the assignment or transfer of any asset or liability or the disclosure of any information; or
- (c) releases any surety, wholly or partly, from all or any of the surety's obligations.

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(3) Without limiting subsection (1), where, apart from this section, the advice or consent of a person would be necessary in a particular respect, the advice is taken to have been obtained or the consent is taken to have been given, as the case requires.
