

This PRIVATE BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

J. R. STEVENSON,
Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, 2 September, 1970.*

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

An Act to supplement by legislation of the State of New South Wales the Australia and New Zealand Banking Group Act 1970 of the United Kingdom which provides, inter alia, for the transfer to Australia and New Zealand Banking Group Limited of the undertakings of Australia and New Zealand Bank Limited and The English, Scottish and Australian Bank, Limited and for other purposes incidental thereto and consequential thereon; to supplement by legislation of the State of New South Wales the Australia and New Zealand Banking Group Act 1970 of the State of Victoria in so far as it relates to the transfer to Australia

Australia and New Zealand Banking Group.

and New Zealand Savings Bank Limited of the undertaking of E. S. & A. Savings Bank Limited; and for purposes connected therewith.

WHEREAS :

Preamble.

- 5 (1) By the Australia and New Zealand Banking Group Act 1970 of the United Kingdom provision is made for the transfer to Australia and New Zealand Banking Group Limited of the undertakings of Australia and New Zealand Bank Limited and The English, Scottish and Australian Bank, Limited and for other purposes incidental thereto and consequential thereon, for the incorporation of Australia and New Zealand Savings Bank Limited in 10 Victoria, for the cesser of application to that company of provisions of the Companies Acts 1948 to 1967 of the United Kingdom consequent upon such incorporation, and for other purposes incidental thereto : 15
- 20 (2) Australia and New Zealand Bank Limited (hereafter in this preamble referred to as "A.N.Z."), Australia and New Zealand Banking Group Limited (hereafter in this preamble referred to as "the Bank") and The English, Scottish and Australian Bank, Limited (hereafter in this preamble referred to as "E.S.A.") are companies incorporated in the United Kingdom and are companies within the meaning of the Companies 25 Acts 1948 to 1967 of the United Kingdom and are companies limited by shares :
- (3) A.N.Z. and E.S.A. each carries on the business of banking in New South Wales as well as elsewhere in the Commonwealth and overseas :

(4)

Australia and New Zealand Banking Group.

- 5 (4) By a scheme of arrangement sanctioned under section 206 of the Companies Acts 1948 to 1967 of the United Kingdom which took effect on the twenty-third day of June, one thousand nine hundred and sixty-nine, A.N.Z. and E.S.A. became wholly-owned subsidiaries of the Bank :
- (5) The said scheme of arrangement was proposed with a view to the merger of the undertakings of A.N.Z. and E.S.A. :
- 10 (6) On the twenty-second day of May, one thousand nine hundred and sixty-nine, the Treasurer of the Commonwealth consented to the transfer of the businesses of A.N.Z. and of E.S.A. in the Commonwealth to the Bank :
- 15 (7) To vest the undertakings of A.N.Z. and E.S.A. carried on in New South Wales in the Bank, it is expedient to enact the provisions set out herein :
- 20 (8) Australia and New Zealand Savings Bank Limited (hereafter in this preamble referred to as "A.N.Z. Savings Bank") was incorporated in the United Kingdom as a company within the meaning of the Companies Acts 1948 to 1967 of the United Kingdom and is a company limited by shares, and
- 25 E.S. & A. Savings Bank Limited (hereafter in this preamble referred to as "E.S.A. Savings Bank") is incorporated in Victoria and is a company within the meaning of the Companies Act 1961 of the State of Victoria and is a company limited by shares :
- 30 (9) A.N.Z. Savings Bank and E.S.A. Savings Bank each carries on the business of a savings bank in New South Wales as well as elsewhere in the Commonwealth :
- 35 (10) A.N.Z. Savings Bank is a wholly-owned subsidiary of A.N.Z. and E.S.A. Savings Bank is a wholly-owned subsidiary of E.S.A. :

(11)

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- (11) It is expedient in the interests of the Bank that the undertakings of A.N.Z. Savings Bank and E.S.A. Savings Bank should be merged :
- 5 (12) On the twenty-second day of May, one thousand nine hundred and sixty-nine, the Treasurer of the Commonwealth consented to the transfer of the business of E.S.A. Savings Bank to A.N.Z. Savings Bank :
- 10 (13) By the Australia and New Zealand Banking Group Act 1970 of the State of Victoria provision is made, inter alia, for A.N.Z. Savings Bank to become a company deemed to be incorporated in Victoria and for the transfer to A.N.Z. Savings Bank of the undertaking of E.S.A. Savings Bank and for other purposes incidental thereto :
- 15 (14) The incorporation of A.N.Z. Savings Bank in Victoria may be effected under the said Act of the State of Victoria prior to the appointed day under this Act :
- 20 (15) To vest the undertaking of E.S.A. Savings Bank carried on in New South Wales in A.N.Z. Savings Bank, it is expedient to enact the provisions set out herein :

BE it therefore enacted by the Queen's Most Excellent
 25 Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

30

PRELIMINARY.

1. (1) This Act may be cited as the "Australia and New Zealand Banking Group Act, 1970".

Short title
and com-
mencement.

(2) This Act shall commence—

- 35 (a) where a day is not appointed under paragraph (b) of this subsection, upon the first day of October, one thousand nine hundred and seventy; or

(b)

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5 (b) where the Governor by proclamation published in the Gazette appoints a day (being a day that is later than the first day of October, one thousand nine hundred and seventy) for the purpose of this paragraph, upon that day.

2. This Act is divided as follows :—

Division of Act.

PART I.—PRELIMINARY.—ss. 1–4.

10 PART II.—VESTING OF UNDERTAKINGS OF AUSTRALIA AND NEW ZEALAND BANK LIMITED AND THE ENGLISH, SCOTTISH AND AUSTRALIAN BANK, LIMITED IN AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED.—ss. 5–12.

15 PART III.—VESTING OF UNDERTAKING OF E.S. & A. SAVINGS BANK LIMITED IN AUSTRALIA AND NEW ZEALAND SAVINGS BANK LIMITED.—ss. 13–19.

PART IV.—GENERAL.—ss. 20–24.

3. This Act binds the Crown.

Act binds the Crown.

4. In this Act, except in so far as the context or subject-matter otherwise indicates or requires :—

Interpretation.

20 “A.N.Z. Savings Bank” means Australia and New Zealand Savings Bank Limited;

“appointed day” means the day upon which this Act commences;

25 “E.S.A. Savings Bank” means E.S. & A. Savings Bank Limited;

“excluded assets” means—

30 (a) any document required to be kept by an existing bank or by E.S.A. Savings Bank pursuant to the provisions of the Companies Act, 1961,

258—B

(b)

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- 5

(b) shares in Britannia Investment Company Pty. Limited held by an existing bank immediately before the appointed day and while so held after that day, and
- 10

(c) any land which is, immediately before the appointed day, vested in, belonging to or held by an existing bank or E.S.A. Savings Bank otherwise than by way of security and while so vested, belonging or held after that day;
- 15

and "excluded asset" shall be construed accordingly;

"existing banks" means Australia and New Zealand Bank Limited and The English, Scottish and Australian Bank, Limited; and "existing bank" shall be construed accordingly;
- 20

"land" includes any estate, interest or right (whether legal or equitable) in, over or under land;

"liabilities" means duties and obligations of every description but does not include any duty or obligation of an existing bank or E.S.A. Savings Bank relating to an excluded asset;
- 25

"property" means property and assets of every description of an existing bank or E.S.A. Savings Bank, and includes securities, rights and powers of every description, vested in or exercisable by an existing bank or vested in or exercisable by E.S.A. Savings Bank;
- 30

"security" means a mortgage (whether legal or equitable), charge, debenture, bill of exchange, promissory note, guarantee, lien, pledge or other means of securing the payment of a debt, whether present or future, or the discharge of an obligation or liability, whether actual or contingent;
- 35

"the Bank" means Australia and New Zealand Banking Group Limited;

"the

Australia and New Zealand Banking Group.

5 “the undertaking of an existing bank” means the business and all of the property, except any excluded asset or any right or power of an existing bank relating to an excluded asset, vested in or belonging to or held by that existing bank immediately before the appointed day and all of the liabilities to which that existing bank is subject immediately before that day; and “the undertakings of the existing banks” shall be construed accordingly;

10 “the undertaking of E.S.A. Savings Bank” means the business and all of the property, except any excluded asset or any right or power of E.S.A. Savings Bank relating to an excluded asset, vested in or belonging to or held by E.S.A. Savings Bank immediately before the appointed day and all of the liabilities to which E.S.A. Savings Bank is subject immediately before that day.

PART II.

20 VESTING OF UNDERTAKINGS OF AUSTRALIA AND NEW ZEALAND BANK LIMITED AND THE ENGLISH, SCOTTISH AND AUSTRALIAN BANK, LIMITED IN AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED.

25 5. On the appointed day the undertakings of the existing banks shall by virtue of this Act be divested from the existing banks and vested in the Bank.

Vesting of undertakings of existing banks in the Bank.

30 6. All contracts, agreements, conveyances, deeds, leases, licences and other instruments or undertakings entered into by or made with or addressed to an existing bank (whether alone or with any other person) in force immediately before the appointed day shall on and after that day to the extent that they were immediately before that day binding upon and enforceable by or against the existing bank, be binding and of full force and effect in every respect in favour of or against the

Transfer of contracts, etc., with existing banks.

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the Bank as fully and effectually as if, instead of the existing bank, the Bank had been a party thereto or bound thereby or entitled to the benefit thereof :

5 Provided that the provisions of this section shall not apply to any contract, agreement, conveyance, deed, lease, licence, instrument or undertaking relating to an excluded asset.

7. Without prejudice to the generality of the foregoing provisions of this Part, the following provisions shall have effect with relation to the banking businesses of the existing banks :—

Transfer of
banking
businesses of
existing
banks to
the Bank.

- 15 (a) The relationship between an existing bank and a customer at any office or branch of that existing bank shall, on and after the appointed day, be between the Bank and such customer, and shall give rise to the same rights and the same duties (including rights of set-off) as would have existed before that day if such relationship had been between the Bank and the customer, and so that
- 20 any instruction, order, direction, mandate or authority given by such customer to the existing bank and subsisting at or given after the appointed day shall, unless and until revoked or cancelled, be deemed to have been given to the Bank.
- 25 (b) Any security held by an existing bank as security for the payment of debts or liabilities (whether present or future, certain or contingent) of any person shall be transferred or deemed to be transferred to the Bank on the appointed day, and shall
- 30 be held by and be available to the Bank as security for the payment of such debts and liabilities to the Bank; and where the security extends to future advances to, or to future liabilities of, such person, the said security shall, as on and after that day,
- 35 subject to any agreement between the Bank and such person, be held by and be available to the Bank as security for future advances to the said person by, and future liabilities of the said person to,

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to, the Bank to the same extent to which future advances by, or liabilities to, the existing bank were secured thereby immediately before that day.

- 5 (c) The Bank shall, in relation to any security transferred or deemed to have been transferred to it in accordance with or by virtue of the provisions of this Act and the moneys thereby secured, be entitled to the same rights and priorities and subject to the same obligations and incidents as the existing bank from which the same has been transferred or deemed to have been transferred would have been entitled and subject to, if the same had continued to be held by the said existing bank.
- 10
- 15 (d) The custody of any document, goods or thing held by an existing bank as bailee for any other person at any office or branch of such existing bank shall be transferred or deemed to be transferred to the Bank on the appointed day, and the rights and obligations of such existing bank under any contract of bailment relating to such document, goods or thing shall be transferred or deemed to be transferred on that day to the Bank.
- 20
- 25 (e) Any negotiable instrument or order for payment of money, whether drawn, given, accepted or endorsed before, on or after the appointed day, which is expressed to be drawn on, or given to, or accepted or endorsed by, an existing bank, or payable at any place of business of an existing bank shall have the same effect on and after the appointed day as if it had been drawn on, or given to, or accepted or endorsed by, the Bank, or payable at the same place of business of the Bank.
- 30
8. (1) This section shall apply to—
- 35 (a) any action, arbitration or proceeding or cause of action, arbitration or proceeding which shall on the appointed day be pending or existing by, against or in favour of an existing bank;

Actions,
etc., by or
against
existing
banks not to
abate.

(b)

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(b) any cause of action, arbitration or proceeding by, against or in favour of an existing bank arising after the appointed day but arising in respect of a contract made by an existing bank before the appointed day or arising in respect of anything done or omitted to be done by an existing bank before the appointed day;

but shall not apply to any action, arbitration or proceeding or to any cause of action, arbitration or proceeding relating to an excluded asset.

(2) Any action, arbitration or proceeding and any cause of action, arbitration or proceeding to which this section applies shall not abate or be discontinued or be in any way prejudicially affected by reason of the provisions of this Act, but the same may be prosecuted and, without amendment of any writ, pleading or other document, continued and enforced by, against or in favour of the Bank in its own name as and when it might have been prosecuted, continued and enforced by, against or in favour of the existing bank if this Act had not been passed :

Provided that the Court or other person making or entering any judgment, order or award for the payment of any sum of money, whether ascertained or to be ascertained, against the Bank in any such action, arbitration or proceeding shall, at the request of any party in whose favour such judgment, order or award is being made or entered, make or enter the same against both the existing bank and the Bank, and the same may, when so made or entered, be enforced against both the existing bank and the Bank.

9. Any party to any action, arbitration or proceeding relating to an excluded asset shall be entitled at any stage thereof to amend any writ, pleading or other document filed by him in such action, arbitration or proceeding by substituting therein for the name of the Bank the name of an existing bank as party, and no order shall be made against any party so amending to pay to the Bank or to an existing bank

Actions, etc., relating to excluded assets of existing banks.

Australia and New Zealand Banking Group.

bank any costs occasioned by such amendment, and the action, arbitration or proceeding shall be continued as if the existing bank had originally been made a party thereto.

10. (1) Notwithstanding the vesting of the undertakings
 5 of the existing banks in the Bank under and in terms of this Act, the provisions of PART IV of the Evidence Act, 1898, shall continue to apply with respect to the bankers' books of the existing banks which are transferred to the Bank by virtue of this Act as if such bankers' books were bankers' books used in the ordinary business of the Bank.

Application
of Evidence
Act, 1898.

(2) In subsection one of this section "bankers' books" means bankers' books within the meaning of the Evidence Act, 1898.

11. Where—

- 15 (a) any enactment other than an enactment in this Act,
 or
 (b) any document whensoever made or executed, other
 than a document constituting or relating to any
 pension scheme, provident fund or officers'
 20 guarantee fund of an existing bank,

References
in enact-
ments and
documents
to existing
banks.

contains any reference express or implied to an existing bank, such reference shall, on and after the appointed day, be read, construed and have effect as a reference to the Bank, except to the extent that the reference relates to an excluded asset
 25 and except where the context otherwise requires.

12. Nothing in this Act prejudices or affects any right
 that, immediately before the appointed day, had accrued or
 was accruing under any Act, award or industrial agreement,
 or under any document constituting or relating to any pension
 30 scheme, provident fund or officers' guarantee fund of an exist-
 ing bank, to an employee under a contract of employment to
 which section six of this Act applies, and—

Continua-
tion of
employees'
rights.

- (a) any such right so accruing shall, until it is lawfully
 terminated or varied, continue to accrue as if—
 35 (i) this Act had not been enacted; and

(ii)

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- 5 (ii) service with the Bank were, for the purposes of the Act, award, industrial agreement or document pursuant to which the right was accruing, service with the existing bank that immediately before the appointed day was bound by that contract of employment; and
- 10 (b) any such right so accrued and any such right so accruing, when accrued, shall be enforceable against the Bank instead of against the existing bank in the same way, at the same time and to the same extent as it might have been enforced against the existing bank if this Act had not been passed.
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PART III.

15 VESTING OF UNDERTAKING OF E.S. & A. SAVINGS BANK
LIMITED IN AUSTRALIA AND NEW ZEALAND SAVINGS
BANK LIMITED.

13. On the appointed day the undertaking of E.S.A. Savings Bank shall by virtue of this Act be divested from E.S.A. Savings Bank and vested in A.N.Z. Savings Bank.
- 20
- Vesting of undertaking of E.S.A. Savings Bank in A.N.Z. Savings Bank.

14. All contracts, agreements, conveyances, deeds, leases, licences and other instruments or undertakings entered into by or made with or addressed to E.S.A. Savings Bank (whether alone or with any other person) in force immediately before the appointed day shall on and after that day to the extent that they were immediately before that day binding upon and enforceable by or against E.S.A. Savings Bank, be binding and of full force and effect in every respect in favour of or against A.N.Z. Savings Bank as fully and effectually as if,
- 25
- Transfer of contracts, etc., with E.S.A. Savings Bank.

instead

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instead of E.S.A. Savings Bank, A.N.Z. Savings Bank had been a party thereto or bound thereby or entitled to the benefit thereof :

5 Provided that the provisions of this section shall not apply to any contract, agreement, conveyance, deed, lease, licence, instrument or undertaking relating to an excluded asset.

15 **15.** Without prejudice to the generality of the foregoing provisions of this Part, the following provisions shall have effect with relation to the banking business of E.S.A. Savings Bank :—

Transfer of
Savings
Bank
business of
E.S.A.
Savings
Bank
to A.N.Z.
Savings
Bank.

15 (a) The relationship between E.S.A. Savings Bank and a customer or depositor at any office or branch or agency of E.S.A. Savings Bank shall, on and after the appointed day, be between A.N.Z. Savings Bank and such customer or depositor, and shall give rise to the same rights and the same duties (including rights of set-off) as would have existed before that day if such relationship had been between A.N.Z. Savings Bank and the customer or depositor, and so that any instruction, order, direction, mandate or authority given by such customer or depositor to E.S.A. Savings Bank and subsisting at or given after the appointed day shall, unless and until revoked or cancelled, be deemed to have been given to A.N.Z. Savings Bank.

30 (b) Any security held by E.S.A. Savings Bank as security for the payment of debts or liabilities (whether present or future, certain or contingent) of any person shall be transferred or deemed to be transferred to A.N.Z. Savings Bank on the appointed day, and shall be held by and be available to A.N.Z. Savings Bank as security for the payment of such debts and liabilities to A.N.Z. Savings Bank; and where the security extends to future advances to or to future liabilities of such person, the said security shall, as on and after that day, subject to any agreement between A.N.Z. Savings

Australia and New Zealand Banking Group.

5 Savings Bank and such person, be held by and be available to A.N.Z. Savings Bank as security for future advances to the said person by, and future liabilities of the said person to, A.N.Z. Savings Bank to the same extent to which future advances by, or liabilities to, E.S.A. Savings Bank were secured thereby immediately before that day.

10 (c) A.N.Z. Savings Bank shall, in relation to any security transferred or deemed to have been transferred to it in accordance with or by virtue of the provisions of this Act and the moneys thereby secured, be entitled to the same rights and priorities and subject to the same obligations and incidents as E.S.A. Savings Bank would have been entitled and subject to if the same had continued to be held by E.S.A. Savings Bank.

20 (d) The custody of any document, goods or thing held by E.S.A. Savings Bank as bailee for any other person at any office or branch of E.S.A. Savings Bank shall be transferred or deemed to be transferred to A.N.Z. Savings Bank on the appointed day and the rights and obligations of E.S.A. Savings Bank under any contract of bailment relating to such document, goods or thing shall be transferred or deemed to be transferred on that day to A.N.Z. Savings Bank.

30 (e) Any negotiable instrument or order for payment of money, whether drawn, given, accepted or endorsed before, on or after the appointed day, which is expressed to be drawn on, or given to, or accepted or endorsed by, E.S.A. Savings Bank, or payable at any place of business of E.S.A. Savings Bank shall have the same effect on and after the appointed day as if it had been drawn on, or given to, or accepted or endorsed by, A.N.Z. Savings Bank, or payable at the same place of business of A.N.Z. Savings Bank.

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16. (1) This section shall apply to—

- 5 (a) any action, arbitration or proceeding or cause of action, arbitration or proceeding which shall on the appointed day be pending or existing by, against or in favour of E.S.A. Savings Bank;
- 10 (b) any cause of action, arbitration or proceeding by, against or in favour of E.S.A. Savings Bank arising after the appointed day but arising in respect of a contract made by E.S.A. Savings Bank before the appointed day or arising in respect of anything done or omitted to be done by E.S.A. Savings Bank before the appointed day;

Actions,
etc., by or
against
E.S.A.
Savings
Bank not
to abate.

but shall not apply to any action, arbitration or proceeding or to any cause of action, arbitration or proceeding relating
15 to an excluded asset.

(2) Any action, arbitration or proceeding and any cause of action, arbitration or proceeding to which this section applies shall not abate or be discontinued or be in any way prejudicially affected by reason of the provisions of this Act,
20 but the same may be prosecuted and, without amendment of any writ, pleading or other document, continued and enforced by, against or in favour of A.N.Z. Savings Bank in its own name as and when it might have been prosecuted, continued and enforced by, against or in favour of E.S.A. Savings Bank
25 if this Act had not been passed :

Provided that the Court or other person making or entering any judgment, order or award for the payment of any sum of money, whether ascertained or to be ascertained, against A.N.Z. Savings Bank in any such action, arbitration or
30 proceeding shall, at the request of any party in whose favour such judgment, order or award is being made or entered, make or enter the same against both E.S.A. Savings Bank and A.N.Z. Savings Bank, and the same may, when so made or entered, be enforced against both E.S.A. Savings Bank and
35 A.N.Z. Savings Bank.

17. Any party to any action, arbitration or proceeding relating to an excluded asset shall be entitled at any stage thereof to amend any writ, pleading or other document filed

Actions,
etc., relating
to excluded
assets of
E.S.A.
Savings
Bank.

by

Australia and New Zealand Banking Group.

by him in such action, arbitration or proceeding by substituting therein for the name of A.N.Z. Savings Bank the name of E.S.A. Savings Bank as party, and no order shall be made against any party so amending to pay to A.N.Z. Savings Bank or to E.S.A. Savings Bank any costs occasioned by such amendment, and the action, arbitration or proceeding shall be continued as if E.S.A. Savings Bank had originally been made a party thereto.

18. (1) Notwithstanding the vesting of the undertaking of E.S.A. Savings Bank in A.N.Z. Savings Bank under and in terms of this Act, the provisions of PART IV of the Evidence Act, 1898, shall continue to apply with respect to the bankers' books of E.S.A. Savings Bank which are transferred to A.N.Z. Savings Bank by virtue of this Act as if such bankers' books were bankers' books used in the ordinary business of A.N.Z. Savings Bank.

(2) In subsection one of this section "bankers' books" means bankers' books within the meaning of the Evidence Act, 1898.

20 19. Where—

(a) any enactment other than an enactment in this Act;
or

(b) any document whensoever made or executed;

contains any reference express or implied to E.S.A. Savings Bank, such reference shall, on and after the appointed day, be read, construed and have effect as a reference to A.N.Z. Savings Bank, except to the extent that the reference relates to an excluded asset and except where the context otherwise requires.

References
in enact-
ments and
documents
to E.S.A.
Savings
Bank.

PART

Australia and New Zealand Banking Group.

PART IV.

GENERAL.

20. It is hereby declared—

- 5 (a) that the entry of the Bank upon, or the use, enjoyment or occupation by the Bank, of any land on or after the appointed day as tenant, sub-tenant or licensee of or under an existing bank or of or under E.S.A. Savings Bank shall not constitute an assignment, transfer, underletting, devolution, parting with possession or other disposition of that land for the purpose of any provision relating to assignment, transfer, underletting, devolution, parting with possession or other disposition contained in any instrument in existence on the appointed day and relating to that land; and
- 10
- 15

Entry of the Bank on land not to constitute assignment, etc.

- (b) that no transfer or vesting effected by virtue of this Act shall invalidate or discharge any contract or security.

21. Service of a document, as defined in subsection one of section five of the Companies Act, 1961—

Service of documents.

- (a) on the Bank shall be deemed to be service on each of the existing banks;
- (b) on an existing bank shall be deemed to be service on the Bank;
- 25 (c) on A.N.Z. Savings Bank shall be deemed to be service on E.S.A. Savings Bank; or
- (d) on E.S.A. Savings Bank shall be deemed to be service on A.N.Z. Savings Bank :

Provided that—

- 30 (e) paragraphs (a) and (b) of this section shall cease to have any force and effect upon the relevant existing bank ceasing to be a subsidiary of the Bank within the meaning of subsection one of section six of the Companies Act, 1961; and

(f)

Australia and New Zealand Banking Group.

- 5 (f) paragraphs (c) and (d) of this section shall cease to have any force and effect upon E.S.A. Savings Bank ceasing to be a subsidiary of the Bank within the meaning of subsection one of section six of the Companies Act, 1961.

22. (1) No person dealing—

- (a) with the Bank or an existing bank (in any capacity whatsoever); or
- 10 (b) with A.N.Z. Savings Bank or E.S.A. Savings Bank (in any capacity whatsoever);

Protection
of persons
in respect
of dealings
with ex-
cluded
assets.

nor the Registrar-General, nor any other person registering or certifying title to land or having the power or duty to examine or receive evidence as to title to land, shall, in respect of any dealing or transaction entered into or purporting to be entered

15 into by the Bank, an existing bank, A.N.Z. Savings Bank or E.S.A. Savings Bank—

- (c) be concerned to see or enquire into whether any property the subject of the dealing or transaction (whether or not that property is land) is an excluded asset; or
- 20 (d) be affected by any notice, express, implied or constructive, that any such property is an excluded asset.

(2) If any dealing or transaction is entered into by

25 the Bank or A.N.Z. Savings Bank with any person, in relation to or in connection with an excluded asset, it shall be deemed in favour of that person that the Bank or A.N.Z. Savings Bank, as the case may be, has full power and authority to enter into that dealing or transaction as if the excluded asset

30 had vested in the Bank or A.N.Z. Savings Bank, as the case may be, under this Act.

(3)

Australia and New Zealand Banking Group.

(3) Nothing in this section affects the liability of the Bank to an existing bank, or of A.N.Z. Savings Bank to E.S.A. Savings Bank, in respect of anything done, or purporting to be done, by the Bank or A.N.Z. Savings Bank, as the case may be, in relation to or in connection with an excluded asset.

23. The provisions of the Stamp Duties Act, 1920, shall not apply to any written request made pursuant to section 46C of the Real Property Act, 1900—

Application
of Stamp
Duties Act,
1920.

- 10 (a) by the Bank in respect of any part of the undertaking of an existing bank to which such section is applicable which is vested in the Bank by this Act; or
- 15 (b) by A.N.Z. Savings Bank in respect of any part of the undertaking of E.S.A. Savings Bank to which such section is applicable which is vested in A.N.Z. Savings Bank by this Act.

24. Nothing in this Act shall exempt the Bank or A.N.Z. Savings Bank from the provisions of any Act relating to companies carrying on the business of banking.

Saving of
Acts relating
to Banks.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1970
[20c]

THE
FEDERAL BUREAU OF INVESTIGATION
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, D. C. 20535

TO : DIRECTOR, FBI (100-388610)
FROM : SAC, NEW YORK (100-100000) (P)
SUBJECT: [REDACTED]

RE: NEW YORK TELETYPE TO BUREAU, 1/11/68.
FOR INFORMATION OF THE BUREAU, THE FOLLOWING IS A SUMMARY OF THE
RESULTS OF THE INVESTIGATION CONDUCTED IN NEW YORK CITY ON 1/11/68:

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]

This PRIVATE BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

Clerk of the Parliaments.

*Legislative Council Chamber,
Sydney, September, 1970.*

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

An Act to supplement by legislation of the State of New South Wales the Australia and New Zealand Banking Group Act 1970 of the United Kingdom which provides, inter alia, for the transfer to Australia and New Zealand Banking Group Limited of the undertakings of Australia and New Zealand Bank Limited and The English, Scottish and Australian Bank, Limited and for other purposes incidental thereto and consequential thereon; to supplement by legislation of the State of New South Wales the Australia and New Zealand Banking Group Act 1970 of the State of Victoria in so far as it relates to the transfer to Australia

Australia and New Zealand Banking Group.

and New Zealand Savings Bank Limited of the undertaking of E. S. & A. Savings Bank Limited; and for purposes connected therewith.

WHEREAS :**Preamble.**

- 5 (1) By the Australia and New Zealand Banking Group Act 1970 of the United Kingdom provision is made for the transfer to Australia and New Zealand Banking Group Limited of the undertakings of Australia and New Zealand Bank Limited and The English, Scottish and Australian Bank, Limited and for other purposes incidental thereto and consequential thereon, for the incorporation of Australia and New Zealand Savings Bank Limited in 10 Victoria, for the cesser of application to that company of provisions of the Companies Acts 1948 to 1967 of the United Kingdom consequent upon such incorporation, and for other purposes incidental thereto :
- 15
- 20 (2) Australia and New Zealand Bank Limited (hereafter in this preamble referred to as "A.N.Z."), Australia and New Zealand Banking Group Limited (hereafter in this preamble referred to as "the Bank") and The English, Scottish and Australian Bank, Limited (hereafter in this preamble referred to as "E.S.A.") are companies incorporated in the United Kingdom and are companies within the meaning of the Companies Acts 1948 to 1967 of the United Kingdom and are 25 companies limited by shares :
- (3) A.N.Z. and E.S.A. each carries on the business of banking in New South Wales as well as elsewhere in the Commonwealth and overseas :

(4)

Australia and New Zealand Banking Group.

- 5 (4) By a scheme of arrangement sanctioned under section 206 of the Companies Acts 1948 to 1967 of the United Kingdom which took effect on the twenty-third day of June, one thousand nine hundred and sixty-nine, A.N.Z. and E.S.A. became wholly-owned subsidiaries of the Bank :
- (5) The said scheme of arrangement was proposed with a view to the merger of the undertakings of A.N.Z. and E.S.A. :
- 10 (6) On the twenty-second day of May, one thousand nine hundred and sixty-nine, the Treasurer of the Commonwealth consented to the transfer of the businesses of A.N.Z. and of E.S.A. in the Commonwealth to the Bank :
- 15 (7) To vest the undertakings of A.N.Z. and E.S.A. carried on in New South Wales in the Bank, it is expedient to enact the provisions set out herein :
- 20 (8) Australia and New Zealand Savings Bank Limited (hereafter in this preamble referred to as "A.N.Z. Savings Bank") was incorporated in the United Kingdom as a company within the meaning of the Companies Acts 1948 to 1967 of the United Kingdom and is a company limited by shares, and E.S. & A. Savings Bank Limited (hereafter in this
- 25 preamble referred to as "E.S.A. Savings Bank") is incorporated in Victoria and is a company within the meaning of the Companies Act 1961 of the State of Victoria and is a company limited by shares :
- 30 (9) A.N.Z. Savings Bank and E.S.A. Savings Bank each carries on the business of a savings bank in New South Wales as well as elsewhere in the Commonwealth :
- 35 (10) A.N.Z. Savings Bank is a wholly-owned subsidiary of A.N.Z. and E.S.A. Savings Bank is a wholly-owned subsidiary of E.S.A. :

(11)

Australia and New Zealand Banking Group.

- (11) It is expedient in the interests of the Bank that the undertakings of A.N.Z. Savings Bank and E.S.A. Savings Bank should be merged :
- 5 (12) On the twenty-second day of May, one thousand nine hundred and sixty-nine, the Treasurer of the Commonwealth consented to the transfer of the business of E.S.A. Savings Bank to A.N.Z. Savings Bank :
- 10 (13) By the Australia and New Zealand Banking Group Act 1970 of the State of Victoria provision is made, inter alia, for A.N.Z. Savings Bank to become a company deemed to be incorporated in Victoria and for the transfer to A.N.Z. Savings Bank of the undertaking of E.S.A. Savings Bank and for other purposes incidental thereto :
- 15 (14) The incorporation of A.N.Z. Savings Bank in Victoria may be effected under the said Act of the State of Victoria prior to the appointed day under this Act :
- 20 (15) To vest the undertaking of E.S.A. Savings Bank carried on in New South Wales in A.N.Z. Savings Bank, it is expedient to enact the provisions set out herein :

BE it therefore enacted by the Queen's Most Excellent
 25 Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

30 PRELIMINARY.

1. (1) This Act may be cited as the "Australia and New Zealand Banking Group Act, 1970". Short title and commencement.
- (2) This Act shall commence—
- 35 (a) where a day is not appointed under paragraph (b) of this subsection, upon the first day of October, one thousand nine hundred and seventy; or
- (b)

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- 5 (b) where the Governor by proclamation published in the Gazette appoints a day (being a day that is later than the first day of October, one thousand nine hundred and seventy) for the purpose of this paragraph, upon that day.

2. This Act is divided as follows :—

Division of
Act.

PART I.—PRELIMINARY.—ss. 1–4.

10 PART II.—VESTING OF UNDERTAKINGS OF AUSTRALIA AND NEW ZEALAND BANK LIMITED AND THE ENGLISH, SCOTTISH AND AUSTRALIAN BANK, LIMITED IN AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED.—ss. 5–12.

15 PART III.—VESTING OF UNDERTAKING OF E.S. & A. SAVINGS BANK LIMITED IN AUSTRALIA AND NEW ZEALAND SAVINGS BANK LIMITED.—ss. 13–19.

PART IV.—GENERAL.—ss. 20–24.

3. This Act binds the Crown.

Act binds
the Crown.

4. In this Act, except in so far as the context or subject-matter otherwise indicates or requires :—

Interpreta-
tion.

20 “A.N.Z. Savings Bank” means Australia and New Zealand Savings Bank Limited;

“appointed day” means the day upon which this Act commences;

25 “E.S.A. Savings Bank” means E.S. & A. Savings Bank Limited;

“excluded assets” means—

30 (a) any document required to be kept by an existing bank or by E.S.A. Savings Bank pursuant to the provisions of the Companies Act, 1961,

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(b)

Australia and New Zealand Banking Group.

- (b) shares in Britannia Investment Company Pty. Limited held by an existing bank immediately before the appointed day and while so held after that day, and
- 5 (c) any land which is, immediately before the appointed day, vested in, belonging to or held by an existing bank or E.S.A. Savings Bank otherwise than by way of security and while so vested, belonging or held after
- 10 that day;
- and "excluded asset" shall be construed accordingly;
- "existing banks" means Australia and New Zealand Bank Limited and The English, Scottish and
- 15 Australian Bank, Limited; and "existing bank" shall be construed accordingly;
- "land" includes any estate, interest or right (whether legal or equitable) in, over or under land;
- "liabilities" means duties and obligations of every
- 20 description but does not include any duty or obligation of an existing bank or E.S.A. Savings Bank relating to an excluded asset;
- "property" means property and assets of every description of an existing bank or E.S.A. Savings Bank, and includes securities, rights and powers of every
- 25 description, vested in or exercisable by an existing bank or vested in or exercisable by E.S.A. Savings Bank;
- "security" means a mortgage (whether legal or equitable), charge, debenture, bill of exchange, promissory note, guarantee, lien, pledge or other means of securing the payment of a debt, whether present or future, or the discharge of an obligation or liability, whether actual or contingent;
- 30 "the Bank" means Australia and New Zealand Banking Group Limited;
- 35

"the

Australia and New Zealand Banking Group.

5 “the undertaking of an existing bank” means the business and all of the property, except any excluded asset or any right or power of an existing bank relating to an excluded asset, vested in or belonging to or held by that existing bank immediately before the appointed day and all of the liabilities to which that existing bank is subject immediately before that day; and “the undertakings of the existing banks” shall be construed accordingly;

15 “the undertaking of E.S.A. Savings Bank” means the business and all of the property, except any excluded asset or any right or power of E.S.A. Savings Bank relating to an excluded asset, vested in or belonging to or held by E.S.A. Savings Bank immediately before the appointed day and all of the liabilities to which E.S.A. Savings Bank is subject immediately before that day.

PART II.

20 VESTING OF UNDERTAKINGS OF AUSTRALIA AND NEW ZEALAND BANK LIMITED AND THE ENGLISH, SCOTTISH AND AUSTRALIAN BANK, LIMITED IN AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED.

25 5. On the appointed day the undertakings of the existing banks shall by virtue of this Act be divested from the existing banks and vested in the Bank.

Vesting of undertakings of existing banks in the Bank.

30 6. All contracts, agreements, conveyances, deeds, leases, licences and other instruments or undertakings entered into by or made with or addressed to an existing bank (whether alone or with any other person) in force immediately before the appointed day shall on and after that day to the extent that they were immediately before that day binding upon and enforceable by or against the existing bank, be binding and of full force and effect in every respect in favour of or against the

Transfer of contracts, etc., with existing banks.

Australia and New Zealand Banking Group.

the Bank as fully and effectually as if, instead of the existing bank, the Bank had been a party thereto or bound thereby or entitled to the benefit thereof :

5 Provided that the provisions of this section shall not apply to any contract, agreement, conveyance, deed, lease, licence, instrument or undertaking relating to an excluded asset.

7. Without prejudice to the generality of the foregoing provisions of this Part, the following provisions shall have
10 effect with relation to the banking businesses of the existing banks :—

Transfer of
banking
businesses of
existing
banks to
the Bank.

- 15 (a) The relationship between an existing bank and a customer at any office or branch of that existing bank shall, on and after the appointed day, be between the Bank and such customer, and shall give rise to the same rights and the same duties (including rights of set-off) as would have existed before that day if such relationship had been between the Bank and the customer, and so that
20 any instruction, order, direction, mandate or authority given by such customer to the existing bank and subsisting at or given after the appointed day shall, unless and until revoked or cancelled, be deemed to have been given to the Bank.
- 25 (b) Any security held by an existing bank as security for the payment of debts or liabilities (whether present or future, certain or contingent) of any person shall be transferred or deemed to be transferred to the Bank on the appointed day, and shall
30 be held by and be available to the Bank as security for the payment of such debts and liabilities to the Bank; and where the security extends to future advances to, or to future liabilities of, such person, the said security shall, as on and after that day, subject to any agreement between the Bank and
35 such person, be held by and be available to the Bank as security for future advances to the said person by, and future liabilities of the said person to,

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to, the Bank to the same extent to which future advances by, or liabilities to, the existing bank were secured thereby immediately before that day.

- 5 (c) The Bank shall, in relation to any security transferred or deemed to have been transferred to it in accordance with or by virtue of the provisions of this Act and the moneys thereby secured, be entitled to the same rights and priorities and subject to the same obligations and incidents as the exist-
10 ing bank from which the same has been transferred or deemed to have been transferred would have been entitled and subject to, if the same had continued to be held by the said existing bank.

- 15 (d) The custody of any document, goods or thing held by an existing bank as bailee for any other person at any office or branch of such existing bank shall be transferred or deemed to be transferred to the Bank on the appointed day, and the rights and obligations of such existing bank under any
20 contract of bailment relating to such document, goods or thing shall be transferred or deemed to be transferred on that day to the Bank.

- (e) Any negotiable instrument or order for payment of money, whether drawn, given, accepted or endorsed
25 before, on or after the appointed day, which is expressed to be drawn on, or given to, or accepted or endorsed by, an existing bank, or payable at any place of business of an existing bank shall have the same effect on and after the appointed day as if
30 it had been drawn on, or given to, or accepted or endorsed by, the Bank, or payable at the same place of business of the Bank.

8. (1) This section shall apply to—

- 35 (a) any action, arbitration or proceeding or cause of action, arbitration or proceeding which shall on the appointed day be pending or existing by, against or in favour of an existing bank;

Actions,
etc., by or
against
existing
banks not to
abate.

(b)

Australia and New Zealand Banking Group.

5 (b) any cause of action, arbitration or proceeding by, against or in favour of an existing bank arising after the appointed day but arising in respect of a contract made by an existing bank before the appointed day or arising in respect of anything done or omitted to be done by an existing bank before the appointed day;

but shall not apply to any action, arbitration or proceeding or to any cause of action, arbitration or proceeding relating
10 to an excluded asset.

(2) Any action, arbitration or proceeding and any cause of action, arbitration or proceeding to which this section applies shall not abate or be discontinued or be in any way prejudicially affected by reason of the provisions of
15 this Act, but the same may be prosecuted and, without amendment of any writ, pleading or other document, continued and enforced by, against or in favour of the Bank in its own name as and when it might have been prosecuted, continued and enforced by, against or in favour of the exist-
20 ing bank if this Act had not been passed :

Provided that the Court or other person making or entering any judgment, order or award for the payment of any sum of money, whether ascertained or to be ascertained, against the Bank in any such action, arbitration or proceeding shall, at
25 the request of any party in whose favour such judgment, order or award is being made or entered, make or enter the same against both the existing bank and the Bank, and the same may, when so made or entered, be enforced against both the existing bank and the Bank.

30 9. Any party to any action, arbitration or proceeding relating to an excluded asset shall be entitled at any stage thereof to amend any writ, pleading or other document filed by him in such action, arbitration or proceeding by substituting therein for the name of the Bank the name of an
35 existing bank as party, and no order shall be made against any party so amending to pay to the Bank or to an existing bank

Actions,
etc., relating
to excluded
assets of
existing
banks.

Australia and New Zealand Banking Group.

bank any costs occasioned by such amendment, and the action, arbitration or proceeding shall be continued as if the existing bank had originally been made a party thereto.

10. (1) Notwithstanding the vesting of the undertakings
 5 of the existing banks in the Bank under and in terms of this Act, the provisions of PART IV of the Evidence Act, 1898, shall continue to apply with respect to the bankers' books of the existing banks which are transferred to the Bank by virtue of this Act as if such bankers' books were bankers' books used in the ordinary business of the Bank.

Application
of Evidence
Act, 1898.

(2) In subsection one of this section "bankers' books" means bankers' books within the meaning of the Evidence Act, 1898.

11. Where—

- 15 (a) any enactment other than an enactment in this Act,
 or
 (b) any document whensoever made or executed, other
 than a document constituting or relating to any
 pension scheme, provident fund or officers'
 20 guarantee fund of an existing bank,

References
in enact-
ments and
documents
to existing
banks.

contains any reference express or implied to an existing bank, such reference shall, on and after the appointed day, be read, construed and have effect as a reference to the Bank, except to the extent that the reference relates to an excluded asset
 25 and except where the context otherwise requires.

12. Nothing in this Act prejudices or affects any right
 that, immediately before the appointed day, had accrued or
 was accruing under any Act, award or industrial agreement,
 or under any document constituting or relating to any pension
 30 scheme, provident fund or officers' guarantee fund of an exist-
 ing bank, to an employee under a contract of employment to
 which section six of this Act applies, and—

Continua-
tion of
employees'
rights.

- (a) any such right so accruing shall, until it is lawfully
 terminated or varied, continue to accrue as if—
 35 (i) this Act had not been enacted; and

(ii)

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- (ii) service with the Bank were, for the purposes of the Act, award, industrial agreement or document pursuant to which the right was accruing, service with the existing bank that immediately before the appointed day was bound by that contract of employment; and
- (b) any such right so accrued and any such right so accruing, when accrued, shall be enforceable against the Bank instead of against the existing bank in the same way, at the same time and to the same extent as it might have been enforced against the existing bank if this Act had not been passed.

PART III.

15 VESTING OF UNDERTAKING OF E.S. & A. SAVINGS BANK
LIMITED IN AUSTRALIA AND NEW ZEALAND SAVINGS
BANK LIMITED.

13. On the appointed day the undertaking of E.S.A. Savings Bank shall by virtue of this Act be divested from E.S.A. Savings Bank and vested in A.N.Z. Savings Bank.
- 20
- Vesting of
undertaking
of E.S.A.
Savings
Bank in
A.N.Z.
Savings
Bank.

14. All contracts, agreements, conveyances, deeds, leases, licences and other instruments or undertakings entered into by or made with or addressed to E.S.A. Savings Bank (whether alone or with any other person) in force immediately before the appointed day shall on and after that day to the extent that they were immediately before that day binding upon and enforceable by or against E.S.A. Savings Bank, be binding and of full force and effect in every respect in favour of or against A.N.Z. Savings Bank as fully and effectually as if,
- 25
- Transfer of
contracts,
etc., with
E.S.A.
Savings
Bank.

instead

Australia and New Zealand Banking Group.

instead of E.S.A. Savings Bank, A.N.Z. Savings Bank had been a party thereto or bound thereby or entitled to the benefit thereof :

5 Provided that the provisions of this section shall not apply to any contract, agreement, conveyance, deed, lease, licence, instrument or undertaking relating to an excluded asset.

15 15. Without prejudice to the generality of the foregoing provisions of this Part, the following provisions shall have effect with relation to the banking business of E.S.A. Savings Bank :—

Transfer of
Savings
Bank
business of
E.S.A.
Savings
Bank
to A.N.Z.
Savings
Bank.

15 (a) The relationship between E.S.A. Savings Bank and a customer or depositor at any office or branch or agency of E.S.A. Savings Bank shall, on and after the appointed day, be between A.N.Z. Savings Bank and such customer or depositor, and shall give rise to the same rights and the same duties (including rights of set-off) as would have existed before that day if such relationship had been between A.N.Z. Savings Bank and the customer or depositor, and so that any instruction, order, direction, mandate or authority given by such customer or depositor to E.S.A. Savings Bank and subsisting at or given after the appointed day shall, unless and until revoked or cancelled, be deemed to have been given to A.N.Z. Savings Bank.

20 (b) Any security held by E.S.A. Savings Bank as security for the payment of debts or liabilities (whether present or future, certain or contingent) of any person shall be transferred or deemed to be transferred to A.N.Z. Savings Bank on the appointed day, and shall be held by and be available to A.N.Z. Savings Bank as security for the payment of such debts and liabilities to A.N.Z. Savings Bank; and where the security extends to future advances to or to future liabilities of such person, the said security shall, as on and after that day, subject to any agreement between A.N.Z.

Savings

Australia and New Zealand Banking Group.

5 Savings Bank and such person, be held by and be available to A.N.Z. Savings Bank as security for future advances to the said person by, and future liabilities of the said person to, A.N.Z. Savings Bank to the same extent to which future advances by, or liabilities to, E.S.A. Savings Bank were secured thereby immediately before that day.

10 (c) A.N.Z. Savings Bank shall, in relation to any security transferred or deemed to have been transferred to it in accordance with or by virtue of the provisions of this Act and the moneys thereby secured, be entitled to the same rights and priorities and subject to the same obligations and incidents as E.S.A. Savings Bank would have been entitled and subject to if the same had continued to be held by E.S.A. Savings Bank.

20 (d) The custody of any document, goods or thing held by E.S.A. Savings Bank as bailee for any other person at any office or branch of E.S.A. Savings Bank shall be transferred or deemed to be transferred to A.N.Z. Savings Bank on the appointed day and the rights and obligations of E.S.A. Savings Bank under any contract of bailment relating to such document, goods or thing shall be transferred or deemed to be transferred on that day to A.N.Z. Savings Bank.

30 (e) Any negotiable instrument or order for payment of money, whether drawn, given, accepted or endorsed before, on or after the appointed day, which is expressed to be drawn on, or given to, or accepted or endorsed by, E.S.A. Savings Bank, or payable at any place of business of E.S.A. Savings Bank shall have the same effect on and after the appointed day as if it had been drawn on, or given to, or accepted or endorsed by, A.N.Z. Savings Bank, or payable at the same place of business of A.N.Z. Savings Bank.

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16. (1) This section shall apply to—

- 5 (a) any action, arbitration or proceeding or cause of action, arbitration or proceeding which shall on the appointed day be pending or existing by, against or in favour of E.S.A. Savings Bank;
- 10 (b) any cause of action, arbitration or proceeding by, against or in favour of E.S.A. Savings Bank arising after the appointed day but arising in respect of a contract made by E.S.A. Savings Bank before the appointed day or arising in respect of anything done or omitted to be done by E.S.A. Savings Bank before the appointed day;

Actions,
etc., by or
against
E.S.A.
Savings
Bank not
to abate.

but shall not apply to any action, arbitration or proceeding or to any cause of action, arbitration or proceeding relating to an excluded asset.

(2) Any action, arbitration or proceeding and any cause of action, arbitration or proceeding to which this section applies shall not abate or be discontinued or be in any way prejudicially affected by reason of the provisions of this Act, but the same may be prosecuted and, without amendment of any writ, pleading or other document, continued and enforced by, against or in favour of A.N.Z. Savings Bank in its own name as and when it might have been prosecuted, continued and enforced by, against or in favour of E.S.A. Savings Bank if this Act had not been passed :

Provided that the Court or other person making or entering any judgment, order or award for the payment of any sum of money, whether ascertained or to be ascertained, against A.N.Z. Savings Bank in any such action, arbitration or proceeding shall, at the request of any party in whose favour such judgment, order or award is being made or entered, make or enter the same against both E.S.A. Savings Bank and A.N.Z. Savings Bank, and the same may, when so made or entered, be enforced against both E.S.A. Savings Bank and A.N.Z. Savings Bank.

17. Any party to any action, arbitration or proceeding relating to an excluded asset shall be entitled at any stage thereof to amend any writ, pleading or other document filed

Actions,
etc., relating
to excluded
assets of
E.S.A.
Savings
Bank.
by

Australia and New Zealand Banking Group.

by him in such action, arbitration or proceeding by substituting therein for the name of A.N.Z. Savings Bank the name of E.S.A. Savings Bank as party, and no order shall be made against any party so amending to pay to A.N.Z. Savings Bank or to E.S.A. Savings Bank any costs occasioned by such amendment, and the action, arbitration or proceeding shall be continued as if E.S.A. Savings Bank had originally been made a party thereto.

18. (1) Notwithstanding the vesting of the undertaking of E.S.A. Savings Bank in A.N.Z. Savings Bank under and in terms of this Act, the provisions of PART IV of the Evidence Act, 1898, shall continue to apply with respect to the bankers' books of E.S.A. Savings Bank which are transferred to A.N.Z. Savings Bank by virtue of this Act as if such bankers' books were bankers' books used in the ordinary business of A.N.Z. Savings Bank.

Application
of Evidence
Act, 1898.

(2) In subsection one of this section "bankers' books" means bankers' books within the meaning of the Evidence Act, 1898.

19. Where—

(a) any enactment other than an enactment in this Act;
or

(b) any document whensoever made or executed;

References
in enact-
ments and
documents
to E.S.A.
Savings
Bank.

contains any reference express or implied to E.S.A. Savings Bank, such reference shall, on and after the appointed day, be read, construed and have effect as a reference to A.N.Z. Savings Bank, except to the extent that the reference relates to an excluded asset and except where the context otherwise requires.

PART

Australia and New Zealand Banking Group.

PART IV.

GENERAL.

20. It is hereby declared—

- 5 (a) that the entry of the Bank upon, or the use, enjoyment or occupation by the Bank, of any land on or after the appointed day as tenant, sub-tenant or licensee of or under an existing bank or of or under E.S.A. Savings Bank shall not constitute an assignment, transfer, underletting, devolution, parting with possession or other disposition of that land for the purpose of any provision relating to assignment, transfer, underletting, devolution, parting with possession or other disposition contained in any instrument in existence on the appointed day and relating to that land; and
- 10
- 15 (b) that no transfer or vesting effected by virtue of this Act shall invalidate or discharge any contract or security.

Entry of the
Bank on
land not to
constitute
assignment,
etc.

21. Service of a document, as defined in subsection one of section five of the Companies Act, 1961—

Service of
documents.

- (a) on the Bank shall be deemed to be service on each of the existing banks;
- (b) on an existing bank shall be deemed to be service on the Bank;
- 25 (c) on A.N.Z. Savings Bank shall be deemed to be service on E.S.A. Savings Bank; or
- (d) on E.S.A. Savings Bank shall be deemed to be service on A.N.Z. Savings Bank :

Provided that—

- 30 (e) paragraphs (a) and (b) of this section shall cease to have any force and effect upon the relevant existing bank ceasing to be a subsidiary of the Bank within the meaning of subsection one of section six of the Companies Act, 1961; and

(f)

Australia and New Zealand Banking Group.

- 5 (f) paragraphs (c) and (d) of this section shall cease to have any force and effect upon E.S.A. Savings Bank ceasing to be a subsidiary of the Bank within the meaning of subsection one of section six of the Companies Act, 1961.

22. (1) No person dealing—

- (a) with the Bank or an existing bank (in any capacity whatsoever); or
- 10 (b) with A.N.Z. Savings Bank or E.S.A. Savings Bank (in any capacity whatsoever);
- Protection of persons in respect of dealings with excluded assets.

nor the Registrar-General, nor any other person registering or certifying title to land or having the power or duty to examine or receive evidence as to title to land, shall, in respect of any dealing or transaction entered into or purporting to be entered

15 into by the Bank, an existing bank, A.N.Z. Savings Bank or E.S.A. Savings Bank—

- (c) be concerned to see or enquire into whether any property the subject of the dealing or transaction (whether or not that property is land) is an
- 20 excluded asset; or
- (d) be affected by any notice, express, implied or constructive, that any such property is an excluded asset.

(2) If any dealing or transaction is entered into by

25 the Bank or A.N.Z. Savings Bank with any person, in relation to or in connection with an excluded asset, it shall be deemed in favour of that person that the Bank or A.N.Z. Savings Bank, as the case may be, has full power and authority to enter into that dealing or transaction as if the excluded asset

30 had vested in the Bank or A.N.Z. Savings Bank, as the case may be, under this Act.

Australia and New Zealand Banking Group.

(3) Nothing in this section affects the liability of the Bank to an existing bank, or of A.N.Z. Savings Bank to E.S.A. Savings Bank, in respect of anything done, or purporting to be done, by the Bank or A.N.Z. Savings Bank, as the case may be, in relation to or in connection with an excluded asset.

23. The provisions of the Stamp Duties Act, 1920, shall not apply to any written request made pursuant to section 46c of the Real Property Act, 1900—

Application
of Stamp
Duties Act,
1920.

- 10 (a) by the Bank in respect of any part of the undertaking of an existing bank to which such section is applicable which is vested in the Bank by this Act; or
- 15 (b) by A.N.Z. Savings Bank in respect of any part of the undertaking of E.S.A. Savings Bank to which such section is applicable which is vested in A.N.Z. Savings Bank by this Act.

24. Nothing in this Act shall exempt the Bank or A.N.Z. Savings Bank from the provisions of any Act relating to companies carrying on the business of banking.

Saving of
Acts relating
to Banks.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1970

Legislative Council.

1970

A BILL

To supplement by legislation of the State of New South Wales the Australia and New Zealand Banking Group Act 1970 of the United Kingdom which provides, inter alia, for the transfer to Australia and New Zealand Banking Group Limited of the undertakings of Australia and New Zealand Bank Limited and The English, Scottish and Australian Bank, Limited and for other purposes incidental thereto and consequential thereon; to supplement by legislation of the State of New South Wales the Australia and New Zealand Banking Group Act 1970 of the State of Victoria in so far as it relates to the transfer to Australia

Australia and New Zealand Banking Group.

and New Zealand Savings Bank Limited of the undertaking of E. S. & A. Savings Bank Limited; and for purposes connected therewith.

[MR MCKAY—5 August, 1970.]

WHEREAS :

Preamble.

- 5 (1) By the Australia and New Zealand Banking Group Act 1970 of the United Kingdom provision is made for the transfer to Australia and New Zealand Banking Group Limited of the undertakings of Australia and New Zealand Bank Limited and The English, Scottish and Australian Bank, Limited and for other purposes incidental thereto and consequential thereon, for the incorporation of Australia and New Zealand Savings Bank Limited in Victoria, for the cesser of application to that company of provisions of the Companies Acts 1948 to 1967 of the United Kingdom consequent upon such incorporation, and for other purposes incidental thereto :
- 20 (2) Australia and New Zealand Bank Limited (hereafter in this preamble referred to as "A.N.Z."), Australia and New Zealand Banking Group Limited (hereafter in this preamble referred to as "the Bank") and The English, Scottish and Australian Bank, Limited (hereafter in this preamble referred to as "E.S.A.") are companies incorporated in the United Kingdom and are companies within the meaning of the Companies Acts 1948 to 1967 of the United Kingdom and are

25 companies limited by shares :
- (3) A.N.Z. and E.S.A. each carries on the business of banking in New South Wales as well as elsewhere in the Commonwealth and overseas :

(4)

Australia and New Zealand Banking Group.

- 5 (4) By a scheme of arrangement sanctioned under section 206 of the Companies Acts 1948 to 1967 of the United Kingdom which took effect on the twenty-third day of June, one thousand nine hundred and sixty-nine, A.N.Z. and E.S.A. became wholly-owned subsidiaries of the Bank :
- (5) The said scheme of arrangement was proposed with a view to the merger of the undertakings of A.N.Z. and E.S.A. :
- 10 (6) On the twenty-second day of May, one thousand nine hundred and sixty-nine, the Treasurer of the Commonwealth consented to the transfer of the businesses of A.N.Z. and of E.S.A. in the Commonwealth to the Bank :
- 15 (7) To vest the undertakings of A.N.Z. and E.S.A. carried on in New South Wales in the Bank, it is expedient to enact the provisions set out herein :
- 20 (8) Australia and New Zealand Savings Bank Limited (hereafter in this preamble referred to as "A.N.Z. Savings Bank") was incorporated in the United Kingdom as a company within the meaning of the Companies Acts 1948 to 1967 of the United Kingdom and is a company limited by shares, and
25 E.S. & A. Savings Bank Limited (hereafter in this preamble referred to as "E.S.A. Savings Bank") is incorporated in Victoria and is a company within the meaning of the Companies Act 1961 of the State of Victoria and is a company limited by shares :
- 30 (9) A.N.Z. Savings Bank and E.S.A. Savings Bank each carries on the business of a savings bank in New South Wales as well as elsewhere in the Commonwealth :
- 35 (10) A.N.Z. Savings Bank is a wholly-owned subsidiary of A.N.Z. and E.S.A. Savings Bank is a wholly-owned subsidiary of E.S.A. :

(11)

Australia and New Zealand Banking Group.

- (11) It is expedient in the interests of the Bank that the undertakings of A.N.Z. Savings Bank and E.S.A. Savings Bank should be merged :
- 5 (12) On the twenty-second day of May, one thousand nine hundred and sixty-nine, the Treasurer of the Commonwealth consented to the transfer of the business of E.S.A. Savings Bank to A.N.Z. Savings Bank :
- 10 (13) By the Australia and New Zealand Banking Group Act 1970 of the State of Victoria provision is made, inter alia, for A.N.Z. Savings Bank to become a company deemed to be incorporated in Victoria and for the transfer to A.N.Z. Savings Bank of the undertaking of E.S.A. Savings Bank and for other purposes incidental thereto :
- 15 (14) The incorporation of A.N.Z. Savings Bank in Victoria may be effected under the said Act of the State of Victoria prior to the appointed day under this Act :
- 20 (15) To vest the undertaking of E.S.A. Savings Bank carried on in New South Wales in A.N.Z. Savings Bank, it is expedient to enact the provisions set out herein :

BE it therefore enacted by the Queen's Most Excellent
 25 Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

30 PRELIMINARY.

1. (1) This Act may be cited as the "Australia and New Zealand Banking Group Act, 1970".

Short title
and com-
mencement.

(2) This Act shall commence—

- 35 (a) where a day is not appointed under paragraph (b) of this subsection, upon the first day of October, one thousand nine hundred and seventy; or

(b)

Australia and New Zealand Banking Group.

- 5 (b) where the Governor by proclamation published in the Gazette appoints a day (being a day that is later than the first day of October, one thousand nine hundred and seventy) for the purpose of this paragraph, upon that day.

2. This Act is divided as follows :—

Division of
Act.

PART I.—PRELIMINARY.—ss. 1–4.

10 PART II.—VESTING OF UNDERTAKINGS OF AUSTRALIA AND NEW ZEALAND BANK LIMITED AND THE ENGLISH, SCOTTISH AND AUSTRALIAN BANK, LIMITED IN AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED.—ss. 5–12.

15 PART III.—VESTING OF UNDERTAKING OF E.S. & A. SAVINGS BANK LIMITED IN AUSTRALIA AND NEW ZEALAND SAVINGS BANK LIMITED.—ss. 13–19.

PART IV.—GENERAL.—ss. 20–24.

3. This Act binds the Crown.

Act binds
the Crown.

4. In this Act, except in so far as the context or subject-matter otherwise indicates or requires :—

Interpreta-
tion.

20 “A.N.Z. Savings Bank” means Australia and New Zealand Savings Bank Limited;

“appointed day” means the day upon which this Act commences;

25 “E.S.A. Savings Bank” means E.S. & A. Savings Bank Limited;

“excluded assets” means—

30 (a) any document required to be kept by an existing bank or by E.S.A. Savings Bank pursuant to the provisions of the Companies Act, 1961,

258—B

(b)

Australia and New Zealand Banking Group.

- (b) shares in Britannia Investment Company Pty. Limited held by an existing bank immediately before the appointed day and while so held after that day, and
- 5 (c) any land which is, immediately before the appointed day, vested in, belonging to or held by an existing bank or E.S.A. Savings Bank otherwise than by way of security and
- 10 while so vested, belonging or held after that day;
- and "excluded asset" shall be construed accordingly;
- "existing banks" means Australia and New Zealand Bank Limited and The English, Scottish and
- 15 Australian Bank, Limited; and "existing bank" shall be construed accordingly;
- "land" includes any estate, interest or right (whether legal or equitable) in, over or under land;
- "liabilities" means duties and obligations of every
- 20 description but does not include any duty or obligation of an existing bank or E.S.A. Savings Bank relating to an excluded asset;
- "property" means property and assets of every description of an existing bank or E.S.A. Savings Bank,
- 25 and includes securities, rights and powers of every description, vested in or exercisable by an existing bank or vested in or exercisable by E.S.A. Savings Bank;
- "security" means a mortgage (whether legal or equitable), charge, debenture, bill of exchange, promissory note, guarantee, lien, pledge or other means
- 30 of securing the payment of a debt, whether present or future, or the discharge of an obligation or liability, whether actual or contingent;
- 35 "the Bank" means Australia and New Zealand Banking Group Limited;

"the

Australia and New Zealand Banking Group.

5 “the undertaking of an existing bank” means the
business and all of the property, except any
excluded asset or any right or power of an existing
bank relating to an excluded asset, vested in or
belonging to or held by that existing bank
immediately before the appointed day and all of the
liabilities to which that existing bank is subject
immediately before that day; and “the undertak-
ings of the existing banks” shall be construed
10 accordingly;

15 “the undertaking of E.S.A. Savings Bank” means the
business and all of the property, except any
excluded asset or any right or power of E.S.A.
Savings Bank relating to an excluded asset, vested
in or belonging to or held by E.S.A. Savings Bank
immediately before the appointed day and all of the
liabilities to which E.S.A. Savings Bank is subject
immediately before that day.

PART II.

20 **VESTING OF UNDERTAKINGS OF AUSTRALIA AND NEW
ZEALAND BANK LIMITED AND THE ENGLISH, SCOTTISH
AND AUSTRALIAN BANK, LIMITED IN AUSTRALIA AND
NEW ZEALAND BANKING GROUP LIMITED.**

5. On the appointed day the undertakings of the existing
25 banks shall by virtue of this Act be divested from the existing
banks and vested in the Bank.

Vesting of
under-
takings of
existing
banks in
the Bank.

6. All contracts, agreements, conveyances, deeds, leases,
licences and other instruments or undertakings entered into
by or made with or addressed to an existing bank (whether
30 alone or with any other person) in force immediately before
the appointed day shall on and after that day to the extent
that they were immediately before that day binding upon and
enforceable by or against the existing bank, be binding and
of full force and effect in every respect in favour of or against
the

Transfer
of contracts,
etc., with
existing
banks.

Australia and New Zealand Banking Group.

the Bank as fully and effectually as if, instead of the existing bank, the Bank had been a party thereto or bound thereby or entitled to the benefit thereof :

5 Provided that the provisions of this section shall not apply to any contract, agreement, conveyance, deed, lease, licence, instrument or undertaking relating to an excluded asset.

7. Without prejudice to the generality of the foregoing provisions of this Part, the following provisions shall have
10 effect with relation to the banking businesses of the existing banks :—

Transfer of
banking
businesses of
existing
banks to
the Bank.

- 15 (a) The relationship between an existing bank and a customer at any office or branch of that existing bank shall, on and after the appointed day, be between the Bank and such customer, and shall give rise to the same rights and the same duties (including rights of set-off) as would have existed before that day if such relationship had been between the Bank and the customer, and so that
20 any instruction, order, direction, mandate or authority given by such customer to the existing bank and subsisting at or given after the appointed day shall, unless and until revoked or cancelled, be deemed to have been given to the Bank.
- 25 (b) Any security held by an existing bank as security for the payment of debts or liabilities (whether present or future, certain or contingent) of any person shall be transferred or deemed to be transferred to the Bank on the appointed day, and shall
30 be held by and be available to the Bank as security for the payment of such debts and liabilities to the Bank; and where the security extends to future advances to, or to future liabilities of, such person, the said security shall, as on and after that day,
35 subject to any agreement between the Bank and such person, be held by and be available to the Bank as security for future advances to the said person by, and future liabilities of the said person to,

Australia and New Zealand Banking Group.

to, the Bank to the same extent to which future advances by, or liabilities to, the existing bank were secured thereby immediately before that day.

5 (c) The Bank shall, in relation to any security transferred or deemed to have been transferred to it in accordance with or by virtue of the provisions of this Act and the moneys thereby secured, be entitled to the same rights and priorities and subject to the same obligations and incidents as the exist-
10 ing bank from which the same has been transferred or deemed to have been transferred would have been entitled and subject to, if the same had continued to be held by the said existing bank.

15 (d) The custody of any document, goods or thing held by an existing bank as bailee for any other person at any office or branch of such existing bank shall be transferred or deemed to be transferred to the Bank on the appointed day, and the rights and obligations of such existing bank under any
20 contract of bailment relating to such document, goods or thing shall be transferred or deemed to be transferred on that day to the Bank.

(e) Any negotiable instrument or order for payment of money, whether drawn, given, accepted or endorsed before, on or after the appointed day, which is
25 expressed to be drawn on, or given to, or accepted or endorsed by, an existing bank, or payable at any place of business of an existing bank shall have the same effect on and after the appointed day as if
30 it had been drawn on, or given to, or accepted or endorsed by, the Bank, or payable at the same place of business of the Bank.

8. (1) This section shall apply to—

35 (a) any action, arbitration or proceeding or cause of action, arbitration or proceeding which shall on the appointed day be pending or existing by, against or in favour of an existing bank;

Actions,
etc., by or
against
existing
banks not to
abate.

(b)

Australia and New Zealand Banking Group.

- 5 (b) any cause of action, arbitration or proceeding by, against or in favour of an existing bank arising after the appointed day but arising in respect of a contract made by an existing bank before the appointed day or arising in respect of anything done or omitted to be done by an existing bank before the appointed day;

but shall not apply to any action, arbitration or proceeding or to any cause of action, arbitration or proceeding relating
10 to an excluded asset.

- (2) Any action, arbitration or proceeding and any cause of action, arbitration or proceeding to which this section applies shall not abate or be discontinued or be in any way prejudicially affected by reason of the provisions of
15 this Act, but the same may be prosecuted and, without amendment of any writ, pleading or other document, continued and enforced by, against or in favour of the Bank in its own name as and when it might have been prosecuted, continued and enforced by, against or in favour of the exist-
20 ing bank if this Act had not been passed :

Provided that the Court or other person making or entering any judgment, order or award for the payment of any sum of money, whether ascertained or to be ascertained, against the Bank in any such action, arbitration or proceeding shall, at
25 the request of any party in whose favour such judgment, order or award is being made or entered, make or enter the same against both the existing bank and the Bank, and the same may, when so made or entered, be enforced against both the existing bank and the Bank.

- 30 9. Any party to any action, arbitration or proceeding relating to an excluded asset shall be entitled at any stage thereof to amend any writ, pleading or other document filed by him in such action, arbitration or proceeding by substituting therein for the name of the Bank the name of an
35 existing bank as party, and no order shall be made against any party so amending to pay to the Bank or to an existing bank
- Actions, etc., relating to excluded assets of existing banks.

Australia and New Zealand Banking Group.

bank any costs occasioned by such amendment, and the action, arbitration or proceeding shall be continued as if the existing bank had originally been made a party thereto.

10. (1) Notwithstanding the vesting of the undertakings
 5 of the existing banks in the Bank under and in terms of this Act, the provisions of PART IV of the Evidence Act, 1898, shall continue to apply with respect to the bankers' books of the existing banks which are transferred to the Bank by virtue of this Act as if such bankers' books were bankers' books used in the ordinary business of the Bank.

Application
of Evidence
Act, 1898.

(2) In subsection one of this section "bankers' books" means bankers' books within the meaning of the Evidence Act, 1898.

11. Where—

- 15 (a) any enactment other than an enactment in this Act,
 or
 (b) any document whensoever made or executed, other
 than a document constituting or relating to any
 20 pension scheme, provident fund or officers'
 guarantee fund of an existing bank,

References
in enact-
ments and
documents
to existing
banks.

contains any reference express or implied to an existing bank, such reference shall, on and after the appointed day, be read, construed and have effect as a reference to the Bank, except to the extent that the reference relates to an excluded asset
 25 and except where the context otherwise requires.

12. Nothing in this Act prejudices or affects any right
 that, immediately before the appointed day, had accrued or
 was accruing under any Act, award or industrial agreement,
 or under any document constituting or relating to any pension
 30 scheme, provident fund or officers' guarantee fund of an exist-
 ing bank, to an employee under a contract of employment to
 which section six of this Act applies, and—

Continua-
tion of
employees'
rights.

- (a) any such right so accruing shall, until it is lawfully
 terminated or varied, continue to accrue as if—
 35 (i) this Act had not been enacted; and

(ii)

Australia and New Zealand Banking Group.

- 5 (ii) service with the Bank were, for the purposes of the Act, award, industrial agreement or document pursuant to which the right was accruing, service with the existing bank that immediately before the appointed day was bound by that contract of employment; and
- 10 (b) any such right so accrued and any such right so accruing, when accrued, shall be enforceable against the Bank instead of against the existing bank in the same way, at the same time and to the same extent as it might have been enforced against the existing bank if this Act had not been passed.

PART III.

15 VESTING OF UNDERTAKING OF E.S. & A. SAVINGS BANK LIMITED IN AUSTRALIA AND NEW ZEALAND SAVINGS BANK LIMITED.

13. On the appointed day the undertaking of E.S.A. Savings Bank shall by virtue of this Act be divested from E.S.A. Savings Bank and vested in A.N.Z. Savings Bank.
- 20 E.S.A. Savings Bank and vested in A.N.Z. Savings Bank.
- Vesting of undertaking of E.S.A. Savings Bank in A.N.Z. Savings Bank.

14. All contracts, agreements, conveyances, deeds, leases, licences and other instruments or undertakings entered into by or made with or addressed to E.S.A. Savings Bank (whether alone or with any other person) in force immediately before the appointed day shall on and after that day to the extent that they were immediately before that day binding upon and enforceable by or against E.S.A. Savings Bank, be binding and of full force and effect in every respect in favour of or against A.N.Z. Savings Bank as fully and effectually as if,
- 25 the appointed day shall on and after that day to the extent that they were immediately before that day binding upon and enforceable by or against E.S.A. Savings Bank, be binding and of full force and effect in every respect in favour of or against A.N.Z. Savings Bank as fully and effectually as if,
- Transfer of contracts, etc., with E.S.A. Savings Bank.

instead

Australia and New Zealand Banking Group.

instead of E.S.A. Savings Bank, A.N.Z. Savings Bank had been a party thereto or bound thereby or entitled to the benefit thereof :

5 Provided that the provisions of this section shall not apply to any contract, agreement, conveyance, deed, lease, licence, instrument or undertaking relating to an excluded asset.

15 15. Without prejudice to the generality of the foregoing provisions of this Part, the following provisions shall have effect with relation to the banking business of E.S.A. Savings Bank :—

Transfer of
Savings
Bank
business of
E.S.A.
Savings
Bank
to A.N.Z.
Savings
Bank.

15 (a) The relationship between E.S.A. Savings Bank and a customer or depositor at any office or branch or agency of E.S.A. Savings Bank shall, on and after the appointed day, be between A.N.Z. Savings Bank and such customer or depositor, and shall give rise to the same rights and the same duties (including rights of set-off) as would have existed before that day if such relationship had been between A.N.Z. Savings Bank and the customer or depositor, and so that any instruction, order, direction, mandate or authority given by such customer or depositor to E.S.A. Savings Bank and subsisting at or given after the appointed day shall, unless and until revoked or cancelled, be deemed to have been given to A.N.Z. Savings Bank.

30 (b) Any security held by E.S.A. Savings Bank as security for the payment of debts or liabilities (whether present or future, certain or contingent) of any person shall be transferred or deemed to be transferred to A.N.Z. Savings Bank on the appointed day, and shall be held by and be available to A.N.Z. Savings Bank as security for the payment of such debts and liabilities to A.N.Z. Savings Bank; and where the security extends to future advances to or to future liabilities of such person, the said security shall, as on and after that day, subject to any agreement between A.N.Z. Savings

Australia and New Zealand Banking Group.

5 Savings Bank and such person, be held by and be available to A.N.Z. Savings Bank as security for future advances to the said person by, and future liabilities of the said person to, A.N.Z. Savings Bank to the same extent to which future advances by, or liabilities to, E.S.A. Savings Bank were secured thereby immediately before that day.

10 (c) A.N.Z. Savings Bank shall, in relation to any security transferred or deemed to have been transferred to it in accordance with or by virtue of the provisions of this Act and the moneys thereby secured, be entitled to the same rights and priorities and subject to the same obligations and incidents as E.S.A. Savings Bank would have been entitled and subject to if the same had continued to be held by E.S.A. Savings Bank.

20 (d) The custody of any document, goods or thing held by E.S.A. Savings Bank as bailee for any other person at any office or branch of E.S.A. Savings Bank shall be transferred or deemed to be transferred to A.N.Z. Savings Bank on the appointed day and the rights and obligations of E.S.A. Savings Bank under any contract of bailment relating to such document, goods or thing shall be transferred or deemed to be transferred on that day to A.N.Z. Savings Bank.

30 (e) Any negotiable instrument or order for payment of money, whether drawn, given, accepted or endorsed before, on or after the appointed day, which is expressed to be drawn on, or given to, or accepted or endorsed by, E.S.A. Savings Bank, or payable at any place of business of E.S.A. Savings Bank shall have the same effect on and after the appointed day as if it had been drawn on, or given to, or accepted or endorsed by, A.N.Z. Savings Bank, or payable at the same place of business of A.N.Z. Savings Bank.

Australia and New Zealand Banking Group.

16. (1) This section shall apply to—

- 5 (a) any action, arbitration or proceeding or cause of action, arbitration or proceeding which shall on the appointed day be pending or existing by, against or in favour of E.S.A. Savings Bank;
- 10 (b) any cause of action, arbitration or proceeding by, against or in favour of E.S.A. Savings Bank arising after the appointed day but arising in respect of a contract made by E.S.A. Savings Bank before the appointed day or arising in respect of anything done or omitted to be done by E.S.A. Savings Bank before the appointed day;

Actions,
etc., by or
against
E.S.A.
Savings
Bank not
to abate.

but shall not apply to any action, arbitration or proceeding or to any cause of action, arbitration or proceeding relating to an excluded asset.

(2) Any action, arbitration or proceeding and any cause of action, arbitration or proceeding to which this section applies shall not abate or be discontinued or be in any way prejudicially affected by reason of the provisions of this Act, but the same may be prosecuted and, without amendment of any writ, pleading or other document, continued and enforced by, against or in favour of A.N.Z. Savings Bank in its own name as and when it might have been prosecuted, continued and enforced by, against or in favour of E.S.A. Savings Bank if this Act had not been passed :

Provided that the Court or other person making or entering any judgment, order or award for the payment of any sum of money, whether ascertained or to be ascertained, against A.N.Z. Savings Bank in any such action, arbitration or proceeding shall, at the request of any party in whose favour such judgment, order or award is being made or entered, make or enter the same against both E.S.A. Savings Bank and A.N.Z. Savings Bank, and the same may, when so made or entered, be enforced against both E.S.A. Savings Bank and A.N.Z. Savings Bank.

17. Any party to any action, arbitration or proceeding relating to an excluded asset shall be entitled at any stage thereof to amend any writ, pleading or other document filed by

Actions,
etc., relating
to excluded
assets of
E.S.A.
Savings
Bank.

Australia and New Zealand Banking Group.

by him in such action, arbitration or proceeding by substituting therein for the name of A.N.Z. Savings Bank the name of E.S.A. Savings Bank as party, and no order shall be made against any party so amending to pay to A.N.Z. Savings Bank or to E.S.A. Savings Bank any costs occasioned by such amendment, and the action, arbitration or proceeding shall be continued as if E.S.A. Savings Bank had originally been made a party thereto.

18. (1) Notwithstanding the vesting of the undertaking of E.S.A. Savings Bank in A.N.Z. Savings Bank under and in terms of this Act, the provisions of PART IV of the Evidence Act, 1898, shall continue to apply with respect to the bankers' books of E.S.A. Savings Bank which are transferred to A.N.Z. Savings Bank by virtue of this Act as if such bankers' books were bankers' books used in the ordinary business of A.N.Z. Savings Bank.

Application
of Evidence
Act, 1898.

(2) In subsection one of this section "bankers' books" means bankers' books within the meaning of the Evidence Act, 1898.

20 19. Where—

- (a) any enactment other than an enactment in this Act;
or
- (b) any document whensoever made or executed;

References
in enact-
ments and
documents
to E.S.A.
Savings
Bank.

contains any reference express or implied to E.S.A. Savings Bank, such reference shall, on and after the appointed day, be read, construed and have effect as a reference to A.N.Z. Savings Bank, except to the extent that the reference relates to an excluded asset and except where the context otherwise requires.

PART

Australia and New Zealand Banking Group.

PART IV.

GENERAL.

20. It is hereby declared—

- 5 (a) that the entry of the Bank upon, or the use, enjoyment or occupation by the Bank, of any land on or after the appointed day as tenant, sub-tenant or licensee of or under an existing bank or of or under E.S.A. Savings Bank shall not constitute an assignment, transfer, underletting, devolution, parting with possession or other disposition of that land for the purpose of any provision relating to assignment, transfer, underletting, devolution, parting with possession or other disposition contained in any instrument in existence on the appointed day and relating to that land; and
- 10
- 15 (b) that no transfer or vesting effected by virtue of this Act shall invalidate or discharge any contract or security.

Entry of the Bank on land not to constitute assignment, etc.

21. Service of a document, as defined in subsection one of section five of the Companies Act, 1961—

20

Service of documents.

- (a) on the Bank shall be deemed to be service on each of the existing banks;
- (b) on an existing bank shall be deemed to be service on the Bank;
- 25 (c) on A.N.Z. Savings Bank shall be deemed to be service on E.S.A. Savings Bank; or
- (d) on E.S.A. Savings Bank shall be deemed to be service on A.N.Z. Savings Bank :

Provided that—

- 30 (e) paragraphs (a) and (b) of this section shall cease to have any force and effect upon the relevant existing bank ceasing to be a subsidiary of the Bank within the meaning of subsection one of section six of the Companies Act, 1961; and

(f)

Australia and New Zealand Banking Group.

- (f) paragraphs (c) and (d) of this section shall cease to have any force and effect upon E.S.A. Savings Bank ceasing to be a subsidiary of the Bank within the meaning of subsection one of section six of the Companies Act, 1961.

5

22. (1) No person dealing—

- (a) with the Bank or an existing bank (in any capacity whatsoever); or
 (b) with A.N.Z. Savings Bank or E.S.A. Savings Bank (in any capacity whatsoever);

Protection
of persons
in respect
of dealings
with ex-
cluded
assets.

10

nor the Registrar-General, nor any other person registering or certifying title to land or having the power or duty to examine or receive evidence as to title to land, shall, in respect of any dealing or transaction entered into or purporting to be entered into by the Bank, an existing bank, A.N.Z. Savings Bank or E.S.A. Savings Bank—

15

- (c) be concerned to see or enquire into whether any property the subject of the dealing or transaction (whether or not that property is land) is an excluded asset; or

20

- (d) be affected by any notice, express, implied or constructive, that any such property is an excluded asset.

- (2) If any dealing or transaction is entered into by the Bank or A.N.Z. Savings Bank with any person, in relation to or in connection with an excluded asset, it shall be deemed in favour of that person that the Bank or A.N.Z. Savings Bank, as the case may be, has full power and authority to enter into that dealing or transaction as if the excluded asset had vested in the Bank or A.N.Z. Savings Bank, as the case may be, under this Act.

25

30

Australia and New Zealand Banking Group.

(3) Nothing in this section affects the liability of the Bank to an existing bank, or of A.N.Z. Savings Bank to E.S.A. Savings Bank, in respect of anything done, or purporting to be done, by the Bank or A.N.Z. Savings Bank, as the case may be, in relation to or in connection with an excluded asset.

23. The provisions of the Stamp Duties Act, 1920, shall not apply to any written request made pursuant to section 46C of the Real Property Act, 1900—

Application
of Stamp
Duties Act,
1920.

- 10 (a) by the Bank in respect of any part of the undertaking of an existing bank to which such section is applicable which is vested in the Bank by this Act; or
- 15 (b) by A.N.Z. Savings Bank in respect of any part of the undertaking of E.S.A. Savings Bank to which such section is applicable which is vested in A.N.Z. Savings Bank by this Act.

24. Nothing in this Act shall exempt the Bank or A.N.Z. Savings Bank from the provisions of any Act relating to companies carrying on the business of banking.

Saving of
Acts relating
to Banks.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1970

Annual Report of the Board of Directors

The Board of Directors of the Corporation has the honor to acknowledge the cooperation and assistance of the various departments and divisions of the Corporation in the preparation of this report. The Board also wishes to express its appreciation to the many individuals who have contributed to the success of the Corporation during the past year.

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Legislative Council.

1970

A BILL

To supplement by legislation of the State of New South Wales the Australia and New Zealand Banking Group Act 1970 of the United Kingdom which provides, inter alia, for the transfer to Australia and New Zealand Banking Group Limited of the undertakings of Australia and New Zealand Bank Limited and The English, Scottish and Australian Bank, Limited and for other purposes incidental thereto and consequential thereon; to supplement by legislation of the State of New South Wales the Australia and New Zealand Banking Group Act 1970 of the State of Victoria in so far as it relates to the transfer to Australia

Australia and New Zealand Banking Group.

and New Zealand Savings Bank Limited of the undertaking of E. S. & A. Savings Bank Limited; and for purposes connected therewith.

[Mr McKAY—5 August, 1970.]

WHEREAS :**Preamble.**

- 5 (1) By the Australia and New Zealand Banking Group Act 1970 of the United Kingdom provision is made for the transfer to Australia and New Zealand Banking Group Limited of the undertakings of Australia and New Zealand Bank Limited and The English, Scottish and Australian Bank, Limited and for other purposes incidental thereto and consequential thereon, for the incorporation of Australia and New Zealand Savings Bank Limited in 10 Victoria, for the cesser of application to that company of provisions of the Companies Acts 1948 to 1967 of the United Kingdom consequent upon such incorporation, and for other purposes 15 incidental thereto :
- 20 (2) Australia and New Zealand Bank Limited (hereafter in this preamble referred to as "A.N.Z."), Australia and New Zealand Banking Group Limited (hereafter in this preamble referred to as "the Bank") and The English, Scottish and Australian Bank, Limited (hereafter in this preamble referred to as "E.S.A.") are companies incorporated in the United Kingdom and are 25 companies within the meaning of the Companies Acts 1948 to 1967 of the United Kingdom and are companies limited by shares :
- (3) A.N.Z. and E.S.A. each carries on the business of banking in New South Wales as well as elsewhere in the Commonwealth and overseas :

(4)

Australia and New Zealand Banking Group.

- 5 (4) By a scheme of arrangement sanctioned under section 206 of the Companies Acts 1948 to 1967 of the United Kingdom which took effect on the twenty-third day of June, one thousand nine hundred and sixty-nine, A.N.Z. and E.S.A. became wholly-owned subsidiaries of the Bank :
- (5) The said scheme of arrangement was proposed with a view to the merger of the undertakings of A.N.Z. and E.S.A. :
- 10 (6) On the twenty-second day of May, one thousand nine hundred and sixty-nine, the Treasurer of the Commonwealth consented to the transfer of the businesses of A.N.Z. and of E.S.A. in the Commonwealth to the Bank :
- 15 (7) To vest the undertakings of A.N.Z. and E.S.A. carried on in New South Wales in the Bank, it is expedient to enact the provisions set out herein :
- 20 (8) Australia and New Zealand Savings Bank Limited (hereafter in this preamble referred to as "A.N.Z. Savings Bank") was incorporated in the United Kingdom as a company within the meaning of the Companies Acts 1948 to 1967 of the United Kingdom and is a company limited by shares, and E.S. & A. Savings Bank Limited (hereafter in this
- 25 preamble referred to as "E.S.A. Savings Bank") is incorporated in Victoria and is a company within the meaning of the Companies Act 1961 of the State of Victoria and is a company limited by shares :
- 30 (9) A.N.Z. Savings Bank and E.S.A. Savings Bank each carries on the business of a savings bank in New South Wales as well as elsewhere in the Commonwealth :
- 35 (10) A.N.Z. Savings Bank is a wholly-owned subsidiary of A.N.Z. and E.S.A. Savings Bank is a wholly-owned subsidiary of E.S.A. :

(11)

Australia and New Zealand Banking Group.

- (11) It is expedient in the interests of the Bank that the undertakings of A.N.Z. Savings Bank and E.S.A. Savings Bank should be merged :
- 5 (12) On the twenty-second day of May, one thousand nine hundred and sixty-nine, the Treasurer of the Commonwealth consented to the transfer of the business of E.S.A. Savings Bank to A.N.Z. Savings Bank :
- 10 (13) By the Australia and New Zealand Banking Group Act 1970 of the State of Victoria provision is made, inter alia, for A.N.Z. Savings Bank to become a company deemed to be incorporated in Victoria and for the transfer to A.N.Z. Savings Bank of the undertaking of E.S.A. Savings Bank and for other purposes incidental thereto :
- 15 (14) The incorporation of A.N.Z. Savings Bank in Victoria may be effected under the said Act of the State of Victoria prior to the appointed day under this Act :
- 20 (15) To vest the undertaking of E.S.A. Savings Bank carried on in New South Wales in A.N.Z. Savings Bank, it is expedient to enact the provisions set out herein :

BE it therefore enacted by the Queen's Most Excellent
25 Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.**30 PRELIMINARY.**

1. (1) This Act may be cited as the "Australia and New Zealand Banking Group Act, 1970".

Short title
and com-
mencement.

(2) This Act shall commence—

- 35 (a) where a day is not appointed under paragraph (b) of this subsection, upon the first day of October, one thousand nine hundred and seventy; or

(b)

Australia and New Zealand Banking Group.

- 5 (b) where the Governor by proclamation published in the Gazette appoints a day (being a day that is later than the first day of October, one thousand nine hundred and seventy) for the purpose of this paragraph, upon that day.

2. This Act is divided as follows :—

Division of Act.

PART I.—PRELIMINARY.—ss. 1–4.

10 PART II.—VESTING OF UNDERTAKINGS OF AUSTRALIA AND NEW ZEALAND BANK LIMITED AND THE ENGLISH, SCOTTISH AND AUSTRALIAN BANK, LIMITED IN AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED.—ss. 5–12.

15 PART III.—VESTING OF UNDERTAKING OF E.S. & A. SAVINGS BANK LIMITED IN AUSTRALIA AND NEW ZEALAND SAVINGS BANK LIMITED.—ss. 13–19.

PART IV.—GENERAL.—ss. 20–24.

3. This Act binds the Crown.

Act binds the Crown.

4. In this Act, except in so far as the context or subject-matter otherwise indicates or requires :—

Interpretation.

20 “A.N.Z. Savings Bank” means Australia and New Zealand Savings Bank Limited;

“appointed day” means the day upon which this Act commences;

25 “E.S.A. Savings Bank” means E.S. & A. Savings Bank Limited;

“excluded assets” means—

30 (a) any document required to be kept by an existing bank or by E.S.A. Savings Bank pursuant to the provisions of the Companies Act, 1961,

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(b)

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- (b) shares in Britannia Investment Company Pty. Limited held by an existing bank immediately before the appointed day and while so held after that day, and
- 5 (c) any land which is, immediately before the appointed day, vested in, belonging to or held by an existing bank or E.S.A. Savings Bank otherwise than by way of security and while so vested, belonging or held after
- 10 that day;
- and "excluded asset" shall be construed accordingly;
- 15 "existing banks" means Australia and New Zealand Bank Limited and The English, Scottish and Australian Bank, Limited; and "existing bank" shall be construed accordingly;
- "land" includes any estate, interest or right (whether legal or equitable) in, over or under land;
- 20 "liabilities" means duties and obligations of every description but does not include any duty or obligation of an existing bank or E.S.A. Savings Bank relating to an excluded asset;
- 25 "property" means property and assets of every description of an existing bank or E.S.A. Savings Bank, and includes securities, rights and powers of every description, vested in or exercisable by an existing bank or vested in or exercisable by E.S.A. Savings Bank;
- 30 "security" means a mortgage (whether legal or equitable), charge, debenture, bill of exchange, promissory note, guarantee, lien, pledge or other means of securing the payment of a debt, whether present or future, or the discharge of an obligation or liability, whether actual or contingent;
- 35 "the Bank" means Australia and New Zealand Banking Group Limited;

"the

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5 “the undertaking of an existing bank” means the business and all of the property, except any excluded asset or any right or power of an existing bank relating to an excluded asset, vested in or belonging to or held by that existing bank immediately before the appointed day and all of the liabilities to which that existing bank is subject immediately before that day; and “the undertakings of the existing banks” shall be construed accordingly;

10 “the undertaking of E.S.A. Savings Bank” means the business and all of the property, except any excluded asset or any right or power of E.S.A. Savings Bank relating to an excluded asset, vested in or belonging to or held by E.S.A. Savings Bank immediately before the appointed day and all of the liabilities to which E.S.A. Savings Bank is subject immediately before that day.

PART II.

20 VESTING OF UNDERTAKINGS OF AUSTRALIA AND NEW ZEALAND BANK LIMITED AND THE ENGLISH, SCOTTISH AND AUSTRALIAN BANK, LIMITED IN AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED.

5. On the appointed day the undertakings of the existing
25 banks shall by virtue of this Act be divested from the existing banks and vested in the Bank.

Vesting of undertakings of existing banks in the Bank.

6. All contracts, agreements, conveyances, deeds, leases, licences and other instruments or undertakings entered into by or made with or addressed to an existing bank (whether
30 alone or with any other person) in force immediately before the appointed day shall on and after that day to the extent that they were immediately before that day binding upon and enforceable by or against the existing bank, be binding and of full force and effect in every respect in favour of or against the

Transfer of contracts, etc., with existing banks.

Australia and New Zealand Banking Group.

the Bank as fully and effectually as if, instead of the existing bank, the Bank had been a party thereto or bound thereby or entitled to the benefit thereof :

5 Provided that the provisions of this section shall not apply to any contract, agreement, conveyance, deed, lease, licence, instrument or undertaking relating to an excluded asset.

7. Without prejudice to the generality of the foregoing provisions of this Part, the following provisions shall have
10 effect with relation to the banking businesses of the existing banks :—

Transfer of
banking
businesses of
existing
banks to
the Bank.

- 15 (a) The relationship between an existing bank and a customer at any office or branch of that existing bank shall, on and after the appointed day, be between the Bank and such customer, and shall give rise to the same rights and the same duties (including rights of set-off) as would have existed before that day if such relationship had been between the Bank and the customer, and so that
20 any instruction, order, direction, mandate or authority given by such customer to the existing bank and subsisting at or given after the appointed day shall, unless and until revoked or cancelled, be deemed to have been given to the Bank.
- 25 (b) Any security held by an existing bank as security for the payment of debts or liabilities (whether present or future, certain or contingent) of any person shall be transferred or deemed to be transferred to the Bank on the appointed day, and shall
30 be held by and be available to the Bank as security for the payment of such debts and liabilities to the Bank; and where the security extends to future advances to, or to future liabilities of, such person, the said security shall, as on and after that day,
35 subject to any agreement between the Bank and such person, be held by and be available to the Bank as security for future advances to the said person by, and future liabilities of the said person to,

Australia and New Zealand Banking Group.

to, the Bank to the same extent to which future advances by, or liabilities to, the existing bank were secured thereby immediately before that day.

5 (c) The Bank shall, in relation to any security transferred or deemed to have been transferred to it in accordance with or by virtue of the provisions of this Act and the moneys thereby secured, be entitled to the same rights and priorities and subject to the same obligations and incidents as the existing bank from which the same has been transferred or deemed to have been transferred would have been entitled and subject to, if the same had continued to be held by the said existing bank.

10 (d) The custody of any document, goods or thing held by an existing bank as bailee for any other person at any office or branch of such existing bank shall be transferred or deemed to be transferred to the Bank on the appointed day, and the rights and obligations of such existing bank under any contract of bailment relating to such document, goods or thing shall be transferred or deemed to be transferred on that day to the Bank.

15 (e) Any negotiable instrument or order for payment of money, whether drawn, given, accepted or endorsed before, on or after the appointed day, which is expressed to be drawn on, or given to, or accepted or endorsed by, an existing bank, or payable at any place of business of an existing bank shall have the same effect on and after the appointed day as if it had been drawn on, or given to, or accepted or endorsed by, the Bank, or payable at the same place of business of the Bank.

20 8. (1) This section shall apply to—

25 (a) any action, arbitration or proceeding or cause of action, arbitration or proceeding which shall on the appointed day be pending or existing by, against or in favour of an existing bank;

Actions,
etc., by or
against
existing
banks not to
abate.

(b)

Australia and New Zealand Banking Group.

- 5 (b) any cause of action, arbitration or proceeding by, against or in favour of an existing bank arising after the appointed day but arising in respect of a contract made by an existing bank before the appointed day or arising in respect of anything done or omitted to be done by an existing bank before the appointed day;

but shall not apply to any action, arbitration or proceeding or to any cause of action, arbitration or proceeding relating to an excluded asset.

- 15 (2) Any action, arbitration or proceeding and any cause of action, arbitration or proceeding to which this section applies shall not abate or be discontinued or be in any way prejudicially affected by reason of the provisions of this Act, but the same may be prosecuted and, without amendment of any writ, pleading or other document, continued and enforced by, against or in favour of the Bank in its own name as and when it might have been prosecuted, continued and enforced by, against or in favour of the existing bank if this Act had not been passed :

25 Provided that the Court or other person making or entering any judgment, order or award for the payment of any sum of money, whether ascertained or to be ascertained, against the Bank in any such action, arbitration or proceeding shall, at the request of any party in whose favour such judgment, order or award is being made or entered, make or enter the same against both the existing bank and the Bank, and the same may, when so made or entered, be enforced against both the existing bank and the Bank.

- 30 9. Any party to any action, arbitration or proceeding relating to an excluded asset shall be entitled at any stage thereof to amend any writ, pleading or other document filed by him in such action, arbitration or proceeding by substituting therein for the name of the Bank the name of an existing bank as party, and no order shall be made against any party so amending to pay to the Bank or to an existing bank
- Actions, etc., relating to excluded assets of existing banks.

Australia and New Zealand Banking Group.

bank any costs occasioned by such amendment, and the action, arbitration or proceeding shall be continued as if the existing bank had originally been made a party thereto.

10. (1) Notwithstanding the vesting of the undertakings
5 of the existing banks in the Bank under and in terms of this Act, the provisions of PART IV of the Evidence Act, 1898, shall continue to apply with respect to the bankers' books of the existing banks which are transferred to the Bank by virtue of this Act as if such bankers' books were bankers' books used in the ordinary business of the Bank.

Application
of Evidence
Act, 1898.

(2) In subsection one of this section "bankers' books" means bankers' books within the meaning of the Evidence Act, 1898.

11. Where—

- 15 (a) any enactment other than an enactment in this Act,
or
(b) any document whensoever made or executed, other
than a document constituting or relating to any
pension scheme, provident fund or officers'
20 guarantee fund of an existing bank,

References
in enact-
ments and
documents
to existing
banks.

contains any reference express or implied to an existing bank, such reference shall, on and after the appointed day, be read, construed and have effect as a reference to the Bank, except to the extent that the reference relates to an excluded asset
25 and except where the context otherwise requires.

12. Nothing in this Act prejudices or affects any right
that, immediately before the appointed day, had accrued or
was accruing under any Act, award or industrial agreement,
or under any document constituting or relating to any pension
30 scheme, provident fund or officers' guarantee fund of an exist-
ing bank, to an employee under a contract of employment to
which section six of this Act applies, and—

Continua-
tion of
employees'
rights.

- (a) any such right so accruing shall, until it is lawfully
terminated or varied, continue to accrue as if—
35 (i) this Act had not been enacted; and

(ii)

Australia and New Zealand Banking Group.

- 5 (ii) service with the Bank were, for the purposes of the Act, award, industrial agreement or document pursuant to which the right was accruing, service with the existing bank that immediately before the appointed day was bound by that contract of employment; and
- 10 (b) any such right so accrued and any such right so accruing, when accrued, shall be enforceable against the Bank instead of against the existing bank in the same way, at the same time and to the same extent as it might have been enforced against the existing bank if this Act had not been passed.
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PART III.

15 **VESTING OF UNDERTAKING OF E.S. & A. SAVINGS BANK LIMITED IN AUSTRALIA AND NEW ZEALAND SAVINGS BANK LIMITED.**

13. On the appointed day the undertaking of E.S.A. Savings Bank shall by virtue of this Act be divested from E.S.A. Savings Bank and vested in A.N.Z. Savings Bank.
- 20
- Vesting of undertaking of E.S.A. Savings Bank in A.N.Z. Savings Bank.

14. All contracts, agreements, conveyances, deeds, leases, licences and other instruments or undertakings entered into by or made with or addressed to E.S.A. Savings Bank (whether alone or with any other person) in force immediately before the appointed day shall on and after that day to the extent that they were immediately before that day binding upon and enforceable by or against E.S.A. Savings Bank, be binding and of full force and effect in every respect in favour of or against A.N.Z. Savings Bank as fully and effectually as if,
- 25
- Transfer of contracts, etc., with E.S.A. Savings Bank.

instead

Australia and New Zealand Banking Group.

instead of E.S.A. Savings Bank, A.N.Z. Savings Bank had been a party thereto or bound thereby or entitled to the benefit thereof :

5 Provided that the provisions of this section shall not apply to any contract, agreement, conveyance, deed, lease, licence, instrument or undertaking relating to an excluded asset.

15 15. Without prejudice to the generality of the foregoing provisions of this Part, the following provisions shall have effect with relation to the banking business of E.S.A. Savings Bank :—

Transfer of
Savings
Bank
business of
E.S.A.
Savings
Bank
to A.N.Z.
Savings
Bank.

15 (a) The relationship between E.S.A. Savings Bank and a customer or depositor at any office or branch or agency of E.S.A. Savings Bank shall, on and after the appointed day, be between A.N.Z. Savings Bank and such customer or depositor, and shall give rise to the same rights and the same duties (including rights of set-off) as would have existed before that day if such relationship had been between A.N.Z. Savings Bank and the customer or depositor, and so that any instruction, order, direction, mandate or authority given by such customer or depositor to E.S.A. Savings Bank and subsisting at or given after the appointed day shall, unless and until revoked or cancelled, be deemed to have been given to A.N.Z. Savings Bank.

20 (b) Any security held by E.S.A. Savings Bank as security for the payment of debts or liabilities (whether present or future, certain or contingent) of any person shall be transferred or deemed to be transferred to A.N.Z. Savings Bank on the appointed day, and shall be held by and be available to A.N.Z. Savings Bank as security for the payment of such debts and liabilities to A.N.Z. Savings Bank; and where the security extends to future advances to or to future liabilities of such person, the said security shall, as on and after that day, subject to any agreement between A.N.Z. Savings

Australia and New Zealand Banking Group.

5 Savings Bank and such person, be held by and be available to A.N.Z. Savings Bank as security for future advances to the said person by, and future liabilities of the said person to, A.N.Z. Savings Bank to the same extent to which future advances by, or liabilities to, E.S.A. Savings Bank were secured thereby immediately before that day.

10 (c) A.N.Z. Savings Bank shall, in relation to any security transferred or deemed to have been transferred to it in accordance with or by virtue of the provisions of this Act and the moneys thereby secured, be entitled to the same rights and priorities and subject to the same obligations and incidents as E.S.A. Savings Bank would have been entitled and subject to if the same had continued to be held by E.S.A. Savings Bank.

20 (d) The custody of any document, goods or thing held by E.S.A. Savings Bank as bailee for any other person at any office or branch of E.S.A. Savings Bank shall be transferred or deemed to be transferred to A.N.Z. Savings Bank on the appointed day and the rights and obligations of E.S.A. Savings Bank under any contract of bailment relating to such document, goods or thing shall be transferred or deemed to be transferred on that day to A.N.Z. Savings Bank.

30 (e) Any negotiable instrument or order for payment of money, whether drawn, given, accepted or endorsed before, on or after the appointed day, which is expressed to be drawn on, or given to, or accepted or endorsed by, E.S.A. Savings Bank, or payable at any place of business of E.S.A. Savings Bank shall have the same effect on and after the appointed day as if it had been drawn on, or given to, or accepted or endorsed by, A.N.Z. Savings Bank, or payable at the same place of business of A.N.Z. Savings Bank.

Australia and New Zealand Banking Group.

16. (1) This section shall apply to—

- 5 (a) any action, arbitration or proceeding or cause of action, arbitration or proceeding which shall on the appointed day be pending or existing by, against or in favour of E.S.A. Savings Bank;
- 10 (b) any cause of action, arbitration or proceeding by, against or in favour of E.S.A. Savings Bank arising after the appointed day but arising in respect of a contract made by E.S.A. Savings Bank before the appointed day or arising in respect of anything done or omitted to be done by E.S.A. Savings Bank before the appointed day;

Actions,
etc., by or
against
E.S.A.
Savings
Bank not
to abate.

but shall not apply to any action, arbitration or proceeding or to any cause of action, arbitration or proceeding relating
15 to an excluded asset.

(2) Any action, arbitration or proceeding and any cause of action, arbitration or proceeding to which this section applies shall not abate or be discontinued or be in any way prejudicially affected by reason of the provisions of this Act,
20 but the same may be prosecuted and, without amendment of any writ, pleading or other document, continued and enforced by, against or in favour of A.N.Z. Savings Bank in its own name as and when it might have been prosecuted, continued and enforced by, against or in favour of E.S.A. Savings Bank
25 if this Act had not been passed :

Provided that the Court or other person making or entering any judgment, order or award for the payment of any sum of money, whether ascertained or to be ascertained, against A.N.Z. Savings Bank in any such action, arbitration or
30 proceeding shall, at the request of any party in whose favour such judgment, order or award is being made or entered, make or enter the same against both E.S.A. Savings Bank and A.N.Z. Savings Bank, and the same may, when so made or entered, be enforced against both E.S.A. Savings Bank and
35 A.N.Z. Savings Bank.

17. Any party to any action, arbitration or proceeding relating to an excluded asset shall be entitled at any stage thereof to amend any writ, pleading or other document filed

Actions,
etc., relating
to excluded
assets of
E.S.A.
Savings
Bank.
by

Australia and New Zealand Banking Group.

by him in such action, arbitration or proceeding by substituting therein for the name of A.N.Z. Savings Bank the name of E.S.A. Savings Bank as party, and no order shall be made against any party so amending to pay to A.N.Z. Savings Bank or to E.S.A. Savings Bank any costs occasioned by such amendment, and the action, arbitration or proceeding shall be continued as if E.S.A. Savings Bank had originally been made a party thereto.

18. (1) Notwithstanding the vesting of the undertaking of E.S.A. Savings Bank in A.N.Z. Savings Bank under and in terms of this Act, the provisions of PART IV of the Evidence Act, 1898, shall continue to apply with respect to the bankers' books of E.S.A. Savings Bank which are transferred to A.N.Z. Savings Bank by virtue of this Act as if such bankers' books were bankers' books used in the ordinary business of A.N.Z. Savings Bank.

Application
of Evidence
Act, 1898.

(2) In subsection one of this section "bankers' books" means bankers' books within the meaning of the Evidence Act, 1898.

19. Where—

(a) any enactment other than an enactment in this Act;
or

(b) any document whensoever made or executed;

References
in enact-
ments and
documents
to E.S.A.
Savings
Bank.

contains any reference express or implied to E.S.A. Savings Bank, such reference shall, on and after the appointed day, be read, construed and have effect as a reference to A.N.Z. Savings Bank, except to the extent that the reference relates to an excluded asset and except where the context otherwise requires.

PART

Australia and New Zealand Banking Group.

PART IV.

GENERAL.

20. It is hereby declared—

- 5 (a) that the entry of the Bank upon, or the use, enjoyment or occupation by the Bank, of any land on or after the appointed day as tenant, sub-tenant or licensee of or under an existing bank or of or under E.S.A. Savings Bank shall not constitute an assignment, transfer, underletting, devolution, parting
10 with possession or other disposition of that land for the purpose of any provision relating to assignment, transfer, underletting, devolution, parting with possession or other disposition contained in any instrument in existence on the appointed day and
15 relating to that land; and
- (b) that no transfer or vesting effected by virtue of this Act shall invalidate or discharge any contract or security.

Entry of the Bank on land not to constitute assignment, etc.

21. Service of a document, as defined in subsection one
20 of section five of the Companies Act, 1961—

Service of documents.

- (a) on the Bank shall be deemed to be service on each of the existing banks;
- (b) on an existing bank shall be deemed to be service on the Bank;
- 25 (c) on A.N.Z. Savings Bank shall be deemed to be service on E.S.A. Savings Bank; or
- (d) on E.S.A. Savings Bank shall be deemed to be service on A.N.Z. Savings Bank :

Provided that—

- 30 (e) paragraphs (a) and (b) of this section shall cease to have any force and effect upon the relevant existing bank ceasing to be a subsidiary of the Bank within the meaning of subsection one of section six of the Companies Act, 1961; and

(f)

Australia and New Zealand Banking Group.

- 5 (f) paragraphs (c) and (d) of this section shall cease to have any force and effect upon E.S.A. Savings Bank ceasing to be a subsidiary of the Bank within the meaning of subsection one of section six of the Companies Act, 1961.

22. (1) No person dealing—

- 10 (a) with the Bank or an existing bank (in any capacity whatsoever); or
(b) with A.N.Z. Savings Bank or E.S.A. Savings Bank (in any capacity whatsoever);
- Protection of persons in respect of dealings with excluded assets.

nor the Registrar-General, nor any other person registering or certifying title to land or having the power or duty to examine or receive evidence as to title to land, shall, in respect of any dealing or transaction entered into or purporting to be entered
15 into by the Bank, an existing bank, A.N.Z. Savings Bank or E.S.A. Savings Bank—

- 20 (c) be concerned to see or enquire into whether any property the subject of the dealing or transaction (whether or not that property is land) is an excluded asset; or
(d) be affected by any notice, express, implied or constructive, that any such property is an excluded asset.

25 (2) If any dealing or transaction is entered into by the Bank or A.N.Z. Savings Bank with any person, in relation to or in connection with an excluded asset, it shall be deemed in favour of that person that the Bank or A.N.Z. Savings Bank, as the case may be, has full power and authority to enter into that dealing or transaction as if the excluded asset
30 had vested in the Bank or A.N.Z. Savings Bank, as the case may be, under this Act.

(3)

Australia and New Zealand Banking Group.

(3) Nothing in this section affects the liability of the Bank to an existing bank, or of A.N.Z. Savings Bank to E.S.A. Savings Bank, in respect of anything done, or purporting to be done, by the Bank or A.N.Z. Savings Bank, as the case may be, in relation to or in connection with an excluded asset.

23. The provisions of the Stamp Duties Act, 1920, shall not apply to any written request made pursuant to section 46c of the Real Property Act, 1900—

Application
of Stamp
Duties Act,
1920.

- 10 (a) by the Bank in respect of any part of the undertaking of an existing bank to which such section is applicable which is vested in the Bank by this Act; or
- 15 (b) by A.N.Z. Savings Bank in respect of any part of the undertaking of E.S.A. Savings Bank to which such section is applicable which is vested in A.N.Z. Savings Bank by this Act.

24. Nothing in this Act shall exempt the Bank or A.N.Z. Savings Bank from the provisions of any Act relating to companies carrying on the business of banking.

Saving of
Acts relating
to Banks.

BY AUTHORITY:

V. C. N. BLIGHT, GOVERNMENT PRINTER, NEW SOUTH WALES—1970
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