

Queensland



ADVANCE BANK INTEGRATION BILL 1997

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1997

A BILL

FOR

**An Act to facilitate the integration of Advance Bank Australia Limited
with St George Bank Limited**

The Parliament of Queensland enacts—

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PART 1—PRELIMINARY

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Short title

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

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Commencement

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2.(1) This Act, other than sections 3 and 10,¹ commences on the succession day.

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(2) However, if at the time this Act would otherwise commence under subsection (1) the gazette notice mentioned in section 10(4) has not been published in the gazette, this Act, other than sections 3 and 10, commences on the day the notice is published in the gazette.

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- (3) Sections 3 and 10 commence on the date of assent of this Act.

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(4) The *Acts Interpretation Act 1954*, section 15DA,² does not apply to this Act.

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Definitions

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3. In this Act—

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“ABAL” means Advance Bank Australia Limited (A.C.N. 002 953 335).

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“asset” includes—

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- (a) a right, interest or claim of any kind, including rights, interests or claims in or in relation to property (whether arising under an instrument or otherwise, and whether liquidated or unliquidated,

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¹ Section 3 (Definitions)
Section 10 (Stamp duty)

² *Acts Interpretation Act 1954*, section 15DA (Automatic commencement of postponed law)

certain or contingent, accrued or accruing); and	1
(b) an asset within the meaning of the <i>Income Tax Assessment Act 1936</i> (Cwlth), part IIIA.	2 3
“ business ”, of ABAL, includes the assets and liabilities of ABAL.	4
“ chief executive officer ”, of SGB, means the officer having the day to day management of the affairs of SGB and includes an officer acting as chief executive officer.	5 6 7
“ instrument ” includes an oral agreement.	8
“ liability ” includes a duty or obligation of any kind (whether arising under an instrument or otherwise, and whether actual, contingent or prospective).	9 10 11
“ NSW regulation ” means the <i>Bank Mergers (Advance Bank) Regulation 1997</i> (NSW) made under the <i>Bank Mergers Act 1996</i> (NSW).	12 13 14
“ SGB ” means St George Bank Limited (A.C.N. 055 513 070).	15
“ stamp duty ” means a fee, duty, charge or liability under the <i>Stamp Act 1894</i> .	16 17
“ succession day ” means the day the NSW regulation commences.	18
“ translated asset ” means an asset that has become, under the NSW regulation, an asset of SGB.	19 20
“ translated instrument ”, in relation to ABAL, means an instrument (including a legislative instrument other than this Act or the NSW regulation) subsisting immediately before the succession day—	21 22 23
(a) to which ABAL is a party; or	24
(b) that was given to, by or in favour of, ABAL; or	25
(c) that refers to ABAL; or	26
(d) under which money is, or may become, payable, or other property is, or may become, liable to be transferred, to or by ABAL.	27 28 29
“ translated liability ” means a liability that has become, under the NSW regulation, a liability of SGB.	30 31

Act binds the State

4. This Act binds the State and, as far as the legislative authority of the Parliament permits, the Commonwealth and the other States.

PART 2—REORGANISATION**Consequence of succession day**

5.(1) Under the NSW regulation, on the succession day—

(a) SGB becomes the successor in law of ABAL and is for all purposes a continuation of and the same legal entity as ABAL; and

(b) ABAL is dissolved; and

(c) all assets of ABAL, wherever located, vest in, or are otherwise available for the use of, SGB without the need for a conveyance, transfer, assignment or assurance and without the need for notice or further act; and

(d) all liabilities of ABAL, wherever located, become liabilities of SGB without the need for notice or further act.

(2) On and after the succession day—

(a) each translated instrument, in relation to ABAL, continues to have effect, according to its tenor as if a reference in the instrument to ABAL were a reference to SGB; and

(b) a place that, immediately before the succession day, was a place of business for ABAL is taken to be a place of business for SGB.

(3) If, immediately before the succession day, proceedings (including arbitration proceedings) to which ABAL was a party had started or were continuing in a court or tribunal, SGB is, on the succession day, substituted for ABAL as a party to the proceedings and has the same rights in the proceedings as ABAL had.

(4) If, before the succession day, documentary or other evidence would have been admissible for or against the interests of ABAL, the evidence is

admissible, on or at any time after the succession day, for or against the interests of SGB.

Relationship between ABAL's customers and SGB

6. Under the NSW regulation, the relationship between ABAL and each customer of ABAL is taken to be, on and after the succession day, between SGB and the customer, and gives rise to the same rights and the same duties (including rights of set off) as would have existed if the relationship, immediately before that day, had been between SGB and the customer.

Authorities etc. by ABAL's customers

7. Under the NSW regulation, each authority, instruction, mandate or order given to ABAL by a customer of ABAL and subsisting on, or given after, the succession day is, until cancelled, taken to have been given to SGB.

Securities held by ABAL

8.(1) Under the NSW regulation, each security held by ABAL immediately before the succession day as security for the payment of debts or liabilities (whether present or future, certain or contingent) of a person is transferred to SGB.

(2) The security is to be held by, and be available to, SGB as security for the payment of the debts and liabilities to SGB.

(3) However, the security is not security for any debt or liability of the person to SGB existing immediately before the succession day.

(4) If the security extends to future advances to, or to future liabilities of, the person, the security is held by, and is available to, SGB as security for future advances to the person by, and future liabilities of the person to, SGB.

(5) If there is an agreement between SGB and the person in relation to a matter mentioned in subsection (3) or (4), subsection (3) or (4) applies subject to the agreement.

Name in which SGB carries on business

9.(1) SGB may carry on business in the State under any of the following names—

- (a) Advance Bank Australia;
- (b) Bank of South Australia;
- (c) BankSA;
- (d) another name registered by SGB under the *Business Names Act 1962*.

(2) ‘Advance Bank Australia’, ‘Bank of South Australia’ and ‘BankSA’ must, on application by SGB, be registered as business names of SGB under the *Business Names Act 1962*.

(3) For a period of 6 months beginning on the succession day, SGB may also carry on business in the State under either of the following names as if the names were registered as business names of SGB under the *Business Names Act 1962*—

- (a) ‘Advance Bank Australia Limited’;
- (b) ‘BankSA a Division of Advance Bank Australia Limited’.

PART 3—MISCELLANEOUS**Stamp duty**

10.(1) No stamp duty is payable for—

- (a) the vesting of the business of ABAL or a translated asset or translated liability in SGB; or
- (b) an application or entry made, receipt given, or anything else done for acknowledging, evidencing or giving effect to the vesting of the business of ABAL or a translated asset or translated liability in SGB.

(2) No obligation arises under the *Stamp Act 1894* for the assessment or imposition of stamp duty—

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- (a) to lodge a statement or return relating to the vesting of the business of ABAL or a translated asset or translated liability in SGB; or 1
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 - (b) to include information about the vesting in a statement or return. 4
 - (3) This section applies only if the amount fixed by the Governor in Council is paid to the consolidated fund by SGB or ABAL. 5
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 - (4) As soon as practicable after the amount is paid, the Minister must notify the payment by gazette notice. 7
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Certificates evidencing operation of Act etc. 9

11.(1) The chief executive officer of SGB may, in writing, certify a matter in relation to the operation or effect of this Act and, in particular, may certify that— 10
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- (a) a specified matter or thing relevant to SGB is an aspect of the operation or effect of this Act; or 13
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- (b) a specified thing was done for a purpose connected with, or arising out of, the operation or effect of this Act in relation to SGB; or 15
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- (c) a specified asset of ABAL has become a translated asset; or 18
- (d) a specified liability of ABAL has become a translated liability. 19

(2) The chief executive officer of SGB may certify that specified assets or liabilities are, or are not, assets or liabilities that vested in ABAL under the *Bank Merger (BankSA and Advance Bank) Act 1996*. 20
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(3) For all purposes and in all courts, tribunals and proceedings, a certificate under subsection (1) or (2) is evidence of the matters certified. 23
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(4) An apparently genuine document purporting to be a certificate under subsection (1) or (2) is, unless the contrary is established, taken to be the certificate. 25
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(5) Nothing done under this Act or under the NSW regulation affects the character that records made by ABAL or a bank from which ABAL acquired the records may have as banking records for the purposes of the law of evidence. 28
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Registration of title etc.

12.(1) The registrar of titles or other person required or authorised by law to register or record transactions affecting assets or liabilities—

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

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

(3) The registrar of titles or other person is not required to act under subsection (1)(b) or (2) unless the appropriate fee or charge relating to the act has been paid to the registrar or person.

Act to have effect despite other laws

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

(2) Nothing done under this Act or under the NSW regulation—

- (a) places SGB, ABAL or another person in breach of contract or confidence or otherwise makes any of them guilty of a civil wrong; or
- (b) places SGB, ABAL or another person in breach of—
 - (i) a law of the State; or
 - (ii) a contractual provision prohibiting, restricting or regulating the assignment or transfer of an asset or liability or the disclosure of information; or
- (c) fulfils a condition that allows a person to terminate or otherwise exercise a right or power under an agreement or liability; or
- (d) releases a surety, wholly or partly, from all or any of the surety's

obligations.

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(3) Without limiting subsection (1), if, apart from this section or the NSW regulation, the advice or consent of a person would be necessary to carry out an action authorised under this Act, the advice is taken to have been obtained or the consent is taken to have been given, as the case requires.

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Application of Acts Interpretation Act 1954, s 20A

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14. This Act is an Act to which the *Acts Interpretation Act 1954*, section 20A applies.

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Expiry of Act

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15. This Act expires 20 years after it commences.

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