



Australian Capital Territory

# **Australia and New Zealand Banking Group Limited (NMRB) Act 1991**

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## **About this republication**

### **The republished law**

This is a republication of the *Australia and New Zealand Banking Group Limited (NMRB) Act 1991* effective from 20 June 1996 to 11 September 2001.

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- authorised republications to which the *Legislation Act 2001* applies
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Australian Capital Territory

## **AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (NMRB) ACT 1991**

This consolidation has been prepared by the ACT Parliamentary Counsel's Office

Updated as at 20 June 1996

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Australian Capital Territory

## **AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (NMRB) ACT 1991**

An Act to supplement the Australia and New Zealand Banking Group Limited (NMRB) Act 1991 of the State of Victoria which provides for the transfer to Australia and New Zealand Banking Group Limited of the undertaking of National Mutual Royal Bank Limited and for the transfer to Australia and New Zealand Savings Bank Limited of one part of the undertaking of National Mutual Royal Savings Bank Limited and for the transfer to Australia and New Zealand Banking Group Limited of the other part of the undertaking of National Mutual Royal Savings Bank Limited and for other purposes incidental thereto and consequential thereon

### **PREAMBLE**

1. National Mutual Royal Bank Limited A.C.N. 006 525 097 (“NMRB”) and National Mutual Royal Savings Bank Limited A.C.N. 007 394 738 (“NMR Savings Bank”) are companies incorporated in Victoria and are companies within the meaning of the Corporations Law of Victoria and are companies limited by shares.

2. Australia and New Zealand Banking Group Limited A.C.N. 005 357 522 (“ANZ”) and Australia and New Zealand Savings Bank Limited A.C.N. 004 845 685 (“ANZ Savings Bank”) are companies deemed to be incorporated in Victoria and are companies within the meaning of the Corporations Law of Victoria and are companies limited by shares.

3. NMR Savings Bank is a wholly owned subsidiary of NMRB and ANZ Savings Bank is a wholly owned subsidiary of ANZ.

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4. ANZ and NMRB each carries on the business of banking in Victoria and elsewhere in Australia and ANZ Savings Bank and NMR Savings Bank each carries on the business of a savings bank in Victoria and elsewhere in Australia.

5. On 2 April 1990, ANZ acquired the whole of the issued share capital of NMRB and since that date NMRB has been a wholly owned subsidiary of ANZ.

6. It is expedient in the interests of efficiency in banking that the banking business conducted by NMRB should be transferred to ANZ and that part of the banking business conducted by NMR Savings Bank should be transferred to ANZ Savings Bank and that the other part should be transferred to ANZ.

7. On 5 December 1990, the Treasurer of Australia consented pursuant to section 63 of the *Banking Act 1959* of the Commonwealth to the amalgamation of NMRB with ANZ.

8. By the Australia and New Zealand Banking Group Limited (NMRB) Act 1991 of the State of Victoria, provision is made for the vesting of the undertaking of NMRB in ANZ and for the vesting of part of the undertaking of NMR Savings Bank in ANZ and the other part in ANZ Savings Bank.

The Legislative Assembly for the Australian Capital Territory therefore enacts as follows:

## **PART I—PRELIMINARY**

### **Short title**

1. This Act may be cited as the *Australia and New Zealand Banking Group Limited (NMRB) Act 1991*.<sup>1</sup>

### **Purpose**

2. The purpose of this Act is to vest the undertaking of NMRB in ANZ and to vest part of the undertaking of NMR Savings Bank in ANZ and the other part in ANZ Savings Bank.

### **Interpretation**

3. In this Act, unless the contrary intention appears—

“ANZ” means Australia and New Zealand Banking Group Limited;

“ANZ Savings Bank” means Australia and New Zealand Savings Bank Limited;

- “appointed day” means the day appointed under section 4;
- “category A liabilities” means the liabilities described in Part 1 of the Schedule;
- “category A property” means the property described in Part 2 of the Schedule;
- “category A undertaking of NMR Savings Bank” means all of the category A property vested in or belonging to or held by NMR Savings Bank immediately before the appointed day and all of the category A liabilities to which NMR Savings Bank is subject immediately before that day;
- “category B undertaking of NMR Savings Bank” means the business and all of the property of NMR Savings Bank (except any category A property and any right or power of NMR Savings Bank relating to any category A property and any excluded asset and any right or power of NMR Savings Bank relating to any excluded asset) vested in or belonging to or held by that bank immediately before the appointed day and all of the liabilities (except category A liabilities) to which NMR Savings Bank is subject immediately before that day;
- “Chief Executive Officer”, in relation to a bank, means the officer in charge of the day-to-day management of the affairs of that bank or a person appointed by him or her in writing;
- “excluded assets” means—
- (a) any document required to be kept by NMRB or by NMR Savings Bank under the Corporations Law of the Capital Territory or otherwise by law;
  - (b) any land which, immediately before the appointed day, is vested in, belongs to, or is held by, NMRB or NMR Savings Bank otherwise than by way of security and while so continuing to be vested in, belonging to, or held by, such bank after that day;
  - (c) shares (including redeemable preference shares) held by NMRB in—
    - (i) NMR Savings Bank;
    - (ii) ANZ Capel Court Limited;

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- (iii) NMRB Management Services Limited;
  - (iv) NMRB Investments Limited;
  - (v) NMRB Finance Limited;
  - (vi) RBC Australia Finance Limited;
  - (vii) Royaustr Management Limited (in liquidation);
  - (viii) Royaustr Properties Pty. Limited (in liquidation);
  - (ix) Funds Transfer Services (Australia) Limited; and
  - (x) The Yulara Development Company Limited; and
- (d) shares held by NMR Savings Bank in—
- (i) NMRB Insurance (Agents) Pty Limited;
  - (ii) NMRB Travel Services Pty Limited (in liquidation);
  - (iii) Ecomel Pty. Limited;
  - (iv) Elgeba Pty. Limited;
  - (v) Excelsior Holdings Pty. Limited (in liquidation); and
  - (vi) F.T.S. (N.S.W.) LTD.;

“land” includes any estate, interest or right (whether legal or equitable) in, over or under any real or leasehold property;

“liabilities” includes duties and obligations of every description, whether actual, contingent or prospective, but does not include any duty or obligation relating to an excluded asset;

“NMRB” means National Mutual Royal Bank Limited;

“NMR Savings Bank” means National Mutual Royal Savings Bank Limited;

“property” means property and assets of every description, and includes securities, rights and powers of every description;

“security” includes 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;

“undertaking of NMRB” means the business and all of the property of NMRB (except any excluded asset and any right or power of NMRB relating to any excluded asset) vested in or belonging to or held by that bank immediately before the appointed day and all of the liabilities to which that bank is subject immediately before that day.

### **Appointed day**

4. The Minister may, by notice published in the *Gazette*, appoint a day for the purposes of this Act.

## **PART II—VESTING OF UNDERTAKING OF NMRB IN ANZ**

### **Vesting of undertaking**

6. (1) On the appointed day the undertaking of NMRB is, by virtue of this Act, divested from NMRB and vested in ANZ.

(2) If any portion of the undertaking of NMRB cannot be vested in ANZ by virtue of this Act because transfer of that portion is governed otherwise than by a law of the Territory, then NMRB shall, as soon as is practicable after the appointed day, take all necessary steps for the purpose of securing that the portion is effectively transferred to ANZ.

(3) The production of a copy of this Act printed by the Government Printer is on and after the appointed day conclusive evidence in all courts and tribunals and proceedings of the transfer to and the vesting in ANZ of that part of the undertaking of NMRB effected by the operation of subsection (1).

### **Effect of contracts and instruments**

7. (1) All contracts, agreements, conveyances, deeds, leases, licences and other instruments or undertakings entered into by or made with, or addressed to, NMRB (whether alone or with any other person) in force immediately before the appointed day are on and after that day to the extent that they were immediately before that day binding upon and enforceable by, or against, NMRB, binding and of full force and effect in every respect in favour of, or against, ANZ, as fully and effectually as if, instead of NMRB, ANZ had been a party thereto or bound thereby or entitled to the whole or any portion of the benefit thereof.

(2) Subsection (1) does not apply to any contract, agreement, conveyance, deed, lease, licence, instrument or undertaking relating to an excluded asset or to a provident, benefit, superannuation or retirement fund.

(3) A director, secretary or auditor of NMRB is not by virtue only of this Act a director, secretary or auditor (as the case may be) of ANZ.

### **Transitional provisions**

8. Without limiting sections 6 and 7, the following provisions have effect in relation to the banking business of NMRB:

- (a) the relationship between NMRB and a customer or depositor at any office or branch or agency of that bank is, on and after the appointed day, between ANZ and that customer or depositor, and gives rise to the same rights and the same duties (including rights of set-off) as would have existed before that day if that relationship had been between ANZ and the customer or depositor, and so that any instruction, order, direction, mandate or authority given by that customer or depositor to NMRB and subsisting on or given after the appointed day shall, unless and until revoked or cancelled, be deemed to have been given to ANZ;
- (b) any security held by NMRB as security for the payment of debts or liabilities (whether present or future, certain or contingent) of any person is transferred or shall be deemed to be transferred to ANZ on the appointed day, and shall be held by and be available to ANZ as security for the payment of those debts and liabilities to ANZ and, where the security extends to future advances to, or to future liabilities of, that person, the security shall, on and after that day, subject to any agreement between ANZ and that person, be held by and be available to ANZ as security for future advances to that person by, and future liabilities of that person to, ANZ, to the same extent to which future advances by, or liabilities to, NMRB were secured immediately before that day;
- (c) ANZ is, in relation to any security transferred or deemed to have been transferred to it in accordance with, or by virtue of, this Act and the money thereby secured, entitled to the same rights and priorities and subject to the same obligations and incidents as NMRB would have been entitled and subject to, if the same had continued to be held by NMRB;

- (d) the custody of any document, goods or thing held by NMRB as bailee for any other person at any office or branch or agency of NMRB is transferred or shall be deemed to be transferred to ANZ on the appointed day, and the rights and obligations of NMRB under any contract of bailment relating to the document, goods or thing are transferred or shall be deemed to be transferred on that day to ANZ;
- (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 by, drawn on, or given to, or accepted or endorsed by NMRB, or payable at any place of business of NMRB has the same effect on and after the appointed day as if it had been drawn by, drawn on, or given to, or accepted or endorsed by, ANZ, or payable at the same place of business of ANZ.

### **Legal proceedings**

**9. (1)** This section applies to—

- (a) any action, arbitration or proceeding or cause of action, arbitration or proceeding which is on the appointed day pending or existing by, against, or in favour of, NMRB; and
- (b) any cause of action, arbitration or proceeding by, against, or in favour of, NMRB, which arises after the appointed day in respect of a contract made by NMRB before the appointed day or which arises in respect of anything done or omitted to be done by NMRB before the appointed day;

but does 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, is not abated or discontinued or in any way prejudicially affected by reason of this Act, but the same may, without any further act, deed or instrument other than any appropriate amendment of the records of the relevant court or tribunal, be prosecuted and continued and enforced by, against, or in favour of, ANZ, in its own name as and when it may have been prosecuted, continued and enforced by, against, or in favour of, NMRB if this Act had not been enacted.

(3) Notwithstanding subsection (2), the court, tribunal 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 ANZ in any action, arbitration or proceeding to which this section applies shall, at the request of any party in whose favour the judgment, order or award is being made or entered, make or enter the judgment, order or award against both NMRB and ANZ, and the judgment, order or award may, when so made or entered, be enforced against both NMRB and ANZ.

### **Amendment of documents**

10. (1) Any party to any action, arbitration or proceeding relating to an excluded asset is entitled at any stage thereof to amend any writ, pleading or other document filed by the party in the action, arbitration or proceeding by substituting therein for the name of ANZ the name of NMRB as party.

(2) No order is to be made against any party so amending to pay to ANZ or to NMRB any costs occasioned by that amendment.

(3) The action, arbitration or proceeding is to be continued as if NMRB had originally been made a party thereto.

### **Evidence**

11. (1) Any book or document which if this Act had not been enacted would have been evidence in respect of any matter for or against NMRB is, on and after the appointed day, to be admissible in evidence in respect of the same matter for or against ANZ.

(2) Without limiting subsection (1), the bankers' books of NMRB shall, for the purposes of Part V of the *Evidence Ordinance 1971*, be deemed to be bankers' books of ANZ.

(3) In this section—

“bankers' books” has the same meaning as in Part V of the *Evidence Ordinance 1971*.

### **Construction of references**

**12.** If any law of the Territory (other than this Act) or any document whenever made or executed (other than a document constituting or relating to a provident, benefit, superannuation or retirement fund) or any register established or kept under any such law contains any reference express or implied to NMRB, the reference is, on and after the appointed day, to be read and construed as a reference to ANZ, except to the extent that the reference is in relation to an excluded asset or unless the context otherwise requires.

## **PART III—VESTING OF UNDERTAKING OF NMR SAVINGS BANK IN ANZ SAVINGS BANK AND ANZ**

### **Vesting of undertaking**

**13. (1)** On the appointed day the category A undertaking of NMR Savings Bank is, by virtue of this Act, divested from NMR Savings Bank and vested in ANZ Savings Bank and the category B undertaking of NMR Savings Bank is, by virtue of this Act, divested from NMR Savings Bank and vested in ANZ.

**(2)** If any portion of the category A undertaking of NMR Savings Bank cannot be vested in ANZ Savings Bank by virtue of this Act because transfer of that portion is governed otherwise than by a law of the Territory, then NMR Savings Bank shall, as soon as is practicable after the appointed day, take all necessary steps for the purpose of securing that the portion is effectively transferred to ANZ Savings Bank.

**(3)** If any portion of the category B undertaking of NMR Savings Bank cannot be vested in ANZ by virtue of this Act because transfer of that portion is governed otherwise than by a law of the Territory, then NMR Savings Bank shall, as soon as is practicable after the appointed day, take all necessary steps for the purpose of securing that the portion is effectively transferred to ANZ.

**(4)** The production of a copy of this Act printed by the Government Printer is, on and after the appointed day, conclusive evidence in all courts and tribunals and proceedings of the transfer to and the vesting in ANZ Savings Bank of that part of the category A undertaking of NMR Savings Bank effected by the operation of subsection (1).

(5) The production of a copy of this Act printed by the Government Printer is, on and after the appointed day, conclusive evidence in all courts and tribunals and proceedings of the transfer to and the vesting in ANZ of that part of the category B undertaking of NMR Savings Bank effected by the operation of subsection (1).

#### **Effect of contracts and instruments**

14. (1) All contracts, agreements, conveyances, deeds, leases, licences and other instruments or undertakings concerning or relating to the category A undertaking of NMR Savings Bank and entered into by, or made with, or addressed to, NMR Savings Bank (whether alone or with any other person) in force immediately before the appointed day are on and after that day to the extent that they were immediately before that day binding upon and enforceable by, or against, NMR Savings Bank, binding and of full force and effect in every respect in favour of, or against, ANZ Savings Bank, as fully and effectually as if, instead of NMR Savings Bank, ANZ Savings Bank had been a party thereto or bound thereby or entitled to the whole or any portion of the benefit thereof.

(2) All contracts, agreements, conveyances, deeds, leases, licences and other instruments or undertakings concerning or relating to the category B undertaking of NMR Savings Bank and entered into by, or made with, or addressed to, NMR Savings Bank (whether alone or with any other person) in force immediately before the appointed day are on and after that day to the extent that they were immediately before that day binding upon and enforceable by, or against, NMR Savings Bank, binding and of full force and effect in every respect in favour of, or against, ANZ as fully and effectually as if, instead of NMR Savings Bank, ANZ had been a party thereto or bound thereby or entitled to the whole or any portion of the benefit thereof.

(3) Subsections (1) and (2) do not apply to any contract, agreement, conveyance, deed, lease, licence, instrument or undertaking relating to an excluded asset.

(4) A director, secretary or auditor of NMR Savings Bank is not by virtue only of this Act a director, secretary or auditor (as the case may be) of ANZ Savings Bank or ANZ.

**Transitional provisions**

**15. (1)** Without limiting sections 13 and 14 and subject to subsections (3) and (4), the following provisions have effect in relation to the banking business of NMR Savings Bank:

- (a) the relationship between NMR Savings Bank and a customer or depositor at any office or branch or agency of that bank is, to the extent that it relates to the category A undertaking of NMR Savings Bank, on and after the appointed day, between ANZ Savings Bank and that customer or depositor, and gives rise to the same rights and the same duties (including rights of set-off) as would have existed before that day if that relationship had been between ANZ Savings Bank and the customer or depositor, and so that any instruction, order, direction, mandate or authority given by that customer or depositor to NMR Savings Bank and subsisting on or given after the appointed day, shall, unless and until revoked or cancelled, be deemed to have been given to ANZ Savings Bank;
- (b) any security held by NMR Savings Bank as security for the payment of debts or liabilities (whether present or future, certain or contingent) of any person and which forms part of the category A undertaking of NMR Savings Bank is transferred or shall be deemed to be transferred to ANZ Savings Bank on the appointed day, and shall be held by and be available to ANZ Savings Bank as security for the payment of those debts and liabilities to ANZ Savings Bank and, where the security extends to future advances to, or to future liabilities of, that person, the security shall, on and after that day, subject to any agreement between ANZ Savings Bank and that person, be held by and be available to ANZ Savings Bank as security for future advances to that person by, and future liabilities of that person to, ANZ Savings Bank, to the same extent to which future advances by, or liabilities to, NMR Savings Bank were secured immediately before that day;
- (c) ANZ Savings Bank is, in relation to any security transferred or deemed to have been transferred to it in accordance with, or by virtue of, this Act and the money thereby secured, entitled to the same rights and priorities and subject to the same obligations and incidents as NMR Savings Bank would have been entitled and subject to, if the same had continued to be held by NMR Savings Bank;

- (d) the custody of any document, goods or thing held by NMR Savings Bank as bailee for any other person at any office or branch or agency of NMR Savings Bank and which relates to or forms part of the category A undertaking of NMR Savings Bank, is transferred or shall be deemed to be transferred to ANZ Savings Bank on the appointed day, and the rights and obligations of NMR Savings Bank under any contract of bailment relating to the document, goods or thing are transferred or shall be deemed to be transferred on that day to ANZ Savings Bank;
- (e) any negotiable instrument or order for payment of money which relates to or forms part of the category A undertaking of NMR Savings Bank, whether drawn, given, accepted or endorsed before, on or after the appointed day, which is expressed to be drawn by, drawn on, or given to, or accepted or endorsed by, NMR Savings Bank, or payable at any place of business of NMR Savings Bank has the same effect on and after the appointed day as if it had been drawn by, drawn on, or given to, or accepted or endorsed by, ANZ Savings Bank, or payable at the same place of business of ANZ Savings Bank.

(2) Without limiting sections 13 and 14 and subject to subsections (3) and (4), the following provisions have effect in relation to the banking business of NMR Savings Bank:

- (a) the relationship between NMR Savings Bank and a customer or depositor at any office or branch or agency of that bank is, to the extent that it relates to the category B undertaking of NMR Savings Bank, on and after the appointed day, between ANZ and that customer or depositor, and gives rise to the same rights and the same duties (including rights of set-off) as would have existed before that day if that relationship had been between ANZ and the customer or depositor, and so that any instruction, order, direction, mandate or authority given by that customer or depositor to NMR Savings Bank and subsisting on or given after the appointed day, shall, unless and until revoked or cancelled, be deemed to have been given to ANZ;
- (b) any security held by NMR Savings Bank as security for the payment of debts or liabilities (whether present or future, certain or contingent) of any person and which forms part of the category B undertaking of NMR Savings Bank is transferred or shall be deemed to be transferred to ANZ on the appointed day, and shall be held by and be available to ANZ as security for the payment of those debts and liabilities to ANZ and, where the security extends to future advances to, or to future liabilities

of, that person, the security shall, on and after that day, subject to any agreement between ANZ and that person, be held by and be available to ANZ as security for future advances to that person by, and future liabilities of that person to, ANZ, to the same extent to which future advances by, or liabilities to, NMR Savings Bank were secured immediately before that day;

- (c) ANZ is, in relation to any security transferred or deemed to have been transferred to it in accordance with, or by virtue of, this Act and the money thereby secured, entitled to the same rights and priorities and subject to the same obligations and incidents as NMR Savings Bank would have been entitled and subject to, if the same had continued to be held by NMR Savings Bank;
- (d) the custody of any document, goods or thing held by NMR Savings Bank as bailee for any other person at any office or branch or agency of NMR Savings Bank and which relates to or forms part of the category B undertaking of NMR Savings Bank, is transferred or shall be deemed to be transferred to ANZ on the appointed day, and the rights and obligations of NMR Savings Bank under any contract of bailment relating to the document, goods or thing are transferred or shall be deemed to be transferred on that day to ANZ;
- (e) any negotiable instrument or order for payment of money which relates to or forms part of the category B undertaking of NMR Savings Bank, whether drawn, given, accepted or endorsed before, on or after the appointed day, which is expressed to be drawn by, drawn on, or given to, or accepted or endorsed by, NMR Savings Bank, or payable at any place of business of NMR Savings Bank has the same effect on or after the appointed day as if it had been drawn by, drawn on, or given to, or accepted or endorsed by ANZ, or payable at the same place of business of ANZ.

**(3)** In cases where a security is transferred to ANZ Savings Bank pursuant to subsection (1) and it also secures or is liable to secure the payment of a debt (whether present or future) or the discharge of an obligation or liability (whether actual or contingent), in either case which forms part of the category B undertaking of NMR Savings Bank, the security shall be held by ANZ Savings Bank as trustee for both ANZ Savings Bank and ANZ as security for the respective amounts owing to ANZ Savings Bank and ANZ from time to time.

(4) In cases where a security is transferred to ANZ pursuant to subsection (2) and it also secures or is liable to secure the payment of a debt (whether present or future) or the discharge of an obligation or liability (whether actual or contingent), in either case which forms part of the category A undertaking of NMR Savings Bank, the security shall be held by ANZ as trustee for both ANZ and ANZ Savings Bank as security for the respective amounts owing to ANZ and ANZ Savings Bank from time to time.

**Legal proceedings—category A undertaking of NMR Savings Bank**

16. (1) This section applies to—

- (a) any action, arbitration or proceeding or cause of action, arbitration or proceeding which is on the appointed day pending or existing by, against, or in favour of, NMR Savings Bank in relation to the category A undertaking of NMR Savings Bank; and
- (b) any cause of action, arbitration or proceeding by, against, or in favour of, NMR Savings Bank, which arises after the appointed day in respect of a contract made by NMR Savings Bank before the appointed day or which arises in respect of anything done or omitted to be done by NMR Savings Bank before the appointed day in either case in relation to the category A undertaking of NMR Savings Bank;

but does 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, is not abated or discontinued or in any way prejudicially affected by reason of this Act, but the same may without any further act, deed or instrument other than any appropriate amendment of the records of the relevant court or tribunal, be prosecuted and continued and enforced by, against, or in favour of, ANZ Savings Bank, in its own name as and when it may have been prosecuted, continued and enforced by, against, or in favour of, NMR Savings Bank if this Act had not been enacted.

(3) Notwithstanding subsection (2), the court, tribunal 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 ANZ Savings Bank in any action, arbitration or proceeding to which this section applies shall, at the request of any party in whose favour the judgment, order or award is being made or entered, make or enter the judgment, order or award against both NMR Savings Bank and ANZ Savings Bank, and the judgment, order or award may,

when so made or entered, be enforced against both NMR Savings Bank and ANZ Savings Bank.

**Legal proceedings—category B undertaking of NMR Savings Bank**

17. (1) This section applies to—

- (a) any action, arbitration or proceeding or cause of action, arbitration or proceeding which is on the appointed day pending or existing by, against, or in favour of, NMR Savings Bank in relation to the category B undertaking of NMR Savings Bank; and
- (b) any cause of action, arbitration or proceeding by, against, or in favour of, NMR Savings Bank, which arises after the appointed day in respect of a contract made by NMR Savings Bank before the appointed day or which arises in respect of anything done or omitted to be done by NMR Savings Bank before the appointed day in either case in relation to the category B undertaking of NMR Savings Bank;

but does 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, is not abated or discontinued or in any way prejudicially affected by reason of this Act, but the same may without any further act, deed or instrument other than any appropriate amendment of the records of the relevant court or tribunal, be prosecuted and continued and enforced by, against, or in favour of, ANZ, in its own name as and when it may have been prosecuted, continued and enforced by, against, or in favour of, NMR Savings Bank if this Act had not been enacted.

(3) Notwithstanding subsection (2), the court, tribunal 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 ANZ in any action, arbitration or proceeding to which this section applies shall, at the request of any party in whose favour the judgment, order or award is being made or entered, make or enter the judgment, order or award against both NMR Savings Bank and ANZ, and the judgment, order or award may, when so made or entered, be enforced against both NMR Savings Bank and ANZ.

### **Amendment of documents**

**18. (1)** Any party to any action, arbitration or proceeding relating to an excluded asset is entitled at any stage to amend any writ, pleading or other document filed by the party in the action, arbitration or proceeding by substituting therein for the name of ANZ Savings Bank or ANZ the name of NMR Savings Bank as a party.

**(2)** No order shall be made against any party so amending to pay to ANZ Savings Bank or to ANZ or to NMR Savings Bank any costs occasioned by that amendment.

**(3)** The action, arbitration or proceeding shall be continued as if NMR Savings Bank had originally been made a party thereto.

### **Evidence—category A undertaking of NMR Savings Bank**

**19. (1)** Any book or document which, if this Act had not been enacted, would have been evidence in respect of any matter for or against NMR Savings Bank in relation to the category A undertaking of NMR Savings Bank is, on and after the appointed day, to be admissible in evidence in respect of the same matter for or against ANZ Savings Bank.

**(2)** Without limiting subsection (1), the bankers' books of NMR Savings Bank shall, for the purposes of Part V of the *Evidence Ordinance 1971*, be deemed to be bankers' books of ANZ Savings Bank.

**(3)** In this section—

“bankers' books” has the same meaning as in Part V of the *Evidence Ordinance 1971*.

### **Evidence—category B undertaking of NMR Savings Bank**

**20. (1)** Any book or document which, if this Act had not been enacted, would have been evidence in respect of any matter for or against NMR Savings Bank in relation to the category B undertaking of NMR Savings Bank is, on and after the appointed day, to be admissible in evidence in respect of the same matter for or against ANZ.

**(2)** Without limiting subsection (1), the bankers' books of NMR Savings Bank shall, for the purposes of Part V of the *Evidence Ordinance 1971*, be deemed to be bankers' books of ANZ.

**(3)** In this section—

“bankers’ books” has the same meaning as in Part V of the *Evidence Ordinance 1971*.

### **Construction of references**

**21.** If any law of the Territory (other than this Act) or any document whenever made or executed, contains any reference express or implied to NMR Savings Bank, the reference is, on and after the appointed day, to be read and construed as a reference to ANZ Savings Bank to the extent that the reference relates to the category A undertaking of NMR Savings Bank and to be read and construed as a reference to ANZ in all other cases, except to the extent that the reference is in relation to an excluded asset or unless the context otherwise requires.

## **PART IV—GENERAL**

### **Effect of things done under this Act**

**22.** Nothing effected by this Act or done or suffered by NMRB, NMR Savings Bank, ANZ or ANZ Savings Bank under this Act—

- (a) is to be taken as placing any of them in breach of contract or confidence or as otherwise making any of them guilty of a civil wrong;
- (b) is to be taken as placing any of them in breach of or as constituting a default under a law of the Territory or any provision in any agreement, arrangement or understanding including, without limiting the generality of the foregoing, any provision prohibiting, restricting or regulating the assignment or transfer of any property or the disclosure of any information;
- (c) is to be taken as fulfilling any condition which allows a person to terminate any agreement or liability; or
- (d) releases any surety or other obligee wholly or in part from any liability.

### **Service of documents**

**23. (1)** Service of a document—

- (a) on ANZ shall be deemed to be service on NMRB except where the document relates to the category B undertaking of NMR Savings Bank, in which case it shall be deemed to be service on NMR Savings Bank;

- (b) on NMRB shall be deemed to be service on ANZ;
- (c) on ANZ Savings Bank shall be deemed to be service on NMR Savings Bank; and
- (d) on NMR Savings Bank shall be deemed to be service on ANZ Savings Bank where the document relates to the category A undertaking of NMR Savings Bank and to be service on ANZ in any other case.

(2) Paragraph (1) (a) ceases to have any force and effect in relation to NMRB upon NMRB ceasing to be a subsidiary of ANZ within the meaning of section 9 of the Corporations Law of the Capital Territory.

(3) Paragraph (1) (b) ceases to have any force and effect upon NMRB ceasing to be a subsidiary of ANZ within the meaning of section 9 of the Corporations Law of the Capital Territory.

(4) Paragraph (1) (a) ceases to have any force and effect in relation to NMR Savings Bank upon NMR Savings Bank ceasing to be a subsidiary of ANZ within the meaning of section 9 of the Corporations Law of the Capital Territory.

(5) Paragraphs (1) (c) and (d) cease to have any force and effect upon NMR Savings Bank ceasing to be a subsidiary of ANZ within the meaning of section 9 of the Corporations Law of the Capital Territory.

### **Excluded assets**

**24. (1)** No person dealing—

- (a) with ANZ or NMRB (in any capacity whatsoever); or
- (b) with ANZ Savings Bank or ANZ or NMR Savings Bank (in any capacity whatsoever);

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, is, in respect of any dealing or transaction entered into or purporting to be entered into by ANZ, NMRB, ANZ Savings Bank or NMR Savings Bank, to 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 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 ANZ or ANZ Savings Bank with any person, in relation to or in connection with an excluded asset, it is to be taken in favour of that person that ANZ or ANZ 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 ANZ or ANZ Savings Bank (as the case may be) under this Act.

(3) Nothing in this section affects the liability of ANZ to NMRB, or of ANZ Savings Bank or ANZ to NMR Savings Bank, in respect of anything done, or purporting to be done, by ANZ or ANZ Savings Bank (as the case may be) in relation to or in connection with an excluded asset.

### **Category A undertaking of NMR Savings Bank and category B undertaking of NMR Savings Bank**

25. The Chief Executive Officer of ANZ may, by certificate signed by him or her, certify any matter in relation to the operation of this Act and, in particular, may certify—

- (a) whether specified property or liabilities formed or did not form on the appointed day part of the category A undertaking of NMR Savings Bank; and
- (b) whether specified property or liabilities formed or did not form on the appointed day part of the category B undertaking of NMR Savings Bank.

### **Interests in land**

26. Notwithstanding anything to the contrary in any law of the Territory, where any land of which NMRB or NMR Savings Bank is, or is deemed or taken to be, the registered proprietor is by virtue of this Act vested in ANZ or in ANZ Savings Bank, ANZ or ANZ Savings Bank (as the case may be) shall be deemed to be the registered proprietor of that land for the purposes of the *Land Titles Act 1925* and the land may be dealt with accordingly.

### **Amendment of Register**

27. The Registrar-General, on being requested to do so and on production of any relevant duplicate certificate of title or other relevant instrument, shall make any amendments to the Register under the *Land Titles Act 1925* and to the duplicate of any grant, certificate of title, registered instrument or other document that are necessary because of the operation of this Act.

**Other property**

**28. (1) Where—**

- (a) any property (other than property to which section 26 or 27 applies) becomes, under this Act, the property of ANZ; and
- (b) any person or authority has, under a law of the Territory, responsibility for keeping a register in respect of property of that kind;

then—

- (c) any requirement of that law relating to the transfer of such property from one person to another shall be deemed to have been complied with if there is lodged with that person or authority a certificate signed by the Chief Executive Officer of ANZ stating that by virtue of this Act the undertaking of NMRB and the category B undertaking of NMR Savings Bank have become vested in ANZ; and
- (d) that person or authority, on being requested to do so and on delivery of any relevant instrument, shall make any amendments to that register which are necessary to make it accurately reflect the effect of this Act.

**(2) Where—**

- (a) any property (other than property to which section 26 or 27 applies) becomes, under this Act, the property of ANZ Savings Bank; and
- (b) any person or authority has, under a law of the Territory, responsibility for keeping a register in respect of property of that kind;

then—

- (c) any requirement of that law relating to the transfer of such property from one person to another shall be deemed to have been complied with if there is lodged with that person or authority a certificate signed by the Chief Executive Officer of ANZ Savings Bank stating that by virtue of this Act the category A undertaking of NMR Savings Bank has become vested in ANZ Savings Bank; and
- (d) that person or authority, on being requested to do so and on delivery of any relevant instrument, shall make any amendments to the register which are necessary to make it accurately reflect the effect of this Act.

**Certificates conclusive**

**29. (1)** For all purposes and in all courts, tribunals and proceedings, a certificate under this Act is conclusive evidence of the matters certified, except so far as the contrary is established.

**(2)** A document purporting to be a certificate under this Act is, unless the contrary is established, to be taken to be such a certificate and to have been properly given.

**Application of banking laws**

**30.** Nothing in this Act exempts ANZ or ANZ Savings Bank from the provisions of any Act relating to companies carrying on the business of banking.

**Exemption from duties or other charges**

**31.** Notwithstanding anything to the contrary in any law of the Territory, no tax, fee, duty, levy or charge of any kind is chargeable or payable on any instrument, certificate or document (including this Act) or in respect of any act or transaction executed, done, suffered or entered into for a purpose connected with, or arising out of, the operation or effect of this Act or any corresponding law of a State or another Territory.

**SCHEDULE  
PART 1**

Section 3

<i>Title and characteristics</i>	<i>Computer Codes</i>
<b>Current Accounts</b>	
Selectaccount	TB 250, 260, 480
NM Life staff	TD 255, 265, 485
Characteristics of all Current Accounts—demand deposit account, interest bearing, periodic statements, cheque issuing facilities.	
<b>Statement Savings Accounts</b>	
Mortgage Interest Saver (MISA)	712, 012, 412, 512, 612, 312
Selectaccount	TA 253, 263, 483
NM Life staff	TF 275, 285, 495
Characteristics of all Statement Savings Accounts—demand deposit account, interest bearing, periodic statements, no cheque issuing facilities.	
<b>Passbook Accounts</b>	
Premium Savings	790, 280, 475, 590, 690, 290
Pensioner Premium	711, 311, 413, 511, 611, 211
Characteristics of all Passbook Accounts—demand deposit account, interest bearing passbook, no cheque issuing facilities.	

**SCHEDULE—continued**  
**PART 2**

<i>Title</i>	<i>Characteristics</i>	<i>Computer Codes</i>
<b>Home Lending Accounts</b>		
Mortgage Loans	Fixed loans	300, 301, 302, 303, 304, 310, 353, 354, 001, 003, 010, 021, 022, 025, 030, 031, 053, 054, 400, 401, 422, 453, 454, 500, 501, 553, 554, 600, 601, 610, 611, 653, 200, 201, 222, 253, 254
	Loan purpose— Residential property Security—mortgage over property	
Securities given to secure Mortgage Loans		

**NOTE**

1. The *Australia and New Zealand Banking Group Limited (NMRB) Act 1991* as shown in this reprint comprises Act No. 66, 1991 amended as indicated in the Tables below.

**Table of Acts**

Act	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Australia and New Zealand Banking Group Limited (NMRB) Act 1991</i>	66, 1991	7 Nov 1991	7 Nov 1991	
<i>Acts Revision (Position of Crown) Act 1993</i>	44, 1993	27 Aug 1993	27 Aug 1993 (see s. 2)	—
<i>Registrar-General (Consequential Provisions) Act 1993</i>	64, 1993	6 Sept 1993	Ss. 1 and 2: 6 Sept 1993 Remainder: 1 Oct 1993 (see s. 2 (2) and <i>Gazette</i> 1993, No. S207)	Part III (ss. 6-13)
<i>Real Property (Consequential Provisions) Act 1993</i>	90, 1993	17 Dec 1993	Ss. 1 and 2: 17 Dec 1993 Remainder: 1 Jan 1994 (see s. 2 (2) and <i>Gazette</i> 1993, No. S270)	—
<i>Land Titles (Consequential Amendments) Act 1995</i>	54, 1995	20 Dec 1995	20 June 1996 (see s. 2)	—

*Australia and New Zealand Banking Group Limited (NMRB) Act 1991*

**NOTE—continued**

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

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Provision	How affected
S. 5.....	rep. No. 44, 1993
S. 24.....	am. No. 64, 1993
S. 26.....	am.No. 54, 1995
S. 27.....	am. Nos. 64 and 90, 1993; No 54, 1995

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Part III (sections 6-13) of the *Registrar-General (Consequential Provisions) Act 1993* provide as follows:

### **PART III—TRANSITIONAL PROVISIONS**

#### **Acts of a Registrar**

6. An act or thing done by, on behalf of, or in relation to, a Registrar or Deputy Registrar, before the commencement day shall, on and after the commencement day, be taken to have been done by, on behalf of, or in relation to, the Registrar-General.

#### **Service on a Registrar**

7. A document or other thing given to, served on, or lodged with, a Registrar or Deputy Registrar shall, on and after the commencement day, be taken to have been given to, served on, or lodged with, the Registrar-General.

#### **Instruments**

8. An instrument made, granted or issued by a Registrar or Deputy Registrar before the commencement day and in force immediately before that day, has effect on and after that day (except in relation to matters that occurred before that day) as if it had been made, granted or issued by the Registrar-General.

#### **References in instruments**

9. A reference to a Registrar or Deputy Registrar in any instrument made, granted or issued before the commencement day and in force immediately before that day has effect, on and after that day, as if the reference were (except in relation to matters that occurred before that day) a reference to the Registrar-General.

#### **Contracts and agreements**

10. A contract or agreement entered into by a Registrar or Deputy Registrar and in force immediately before the commencement day continues in force on and after that day as if—

- (a) the Registrar-General were substituted for the Registrar or Deputy Registrar as a party to the contract or agreement; and

S. 10 (continued)

- (b) any reference in the contract or agreement to the Registrar or Deputy Registrar were (except in relation to matters that occurred before that day) a reference to the Registrar-General.

### **Legal proceedings**

**11. (1)** Where, before the commencement day, a cause of action by or against a Registrar or Deputy Registrar had arisen but proceedings in respect of that cause of action had not been instituted before that day, such proceedings may be instituted by or against the Registrar-General.

**(2)** Where, before the commencement day, proceedings had been instituted by or against a Registrar or Deputy Registrar in a court, tribunal, commission or other body but those proceedings had not been completed before that day, those proceedings may be continued by or against the Registrar-General.

**(3)** In proceedings instituted or continued under this section, each party to the proceedings has the same rights, and is subject to the same obligations, as if the Registrar-General were the Registrar or Deputy Registrar, as the case requires, and the proceedings had been instituted or continued by or against the Registrar or Deputy Registrar, as the case requires.

### **Rights and liabilities**

**12.** The rights, privileges, obligations and liabilities of a Registrar or Deputy Registrar existing immediately before the commencement day are, on and after that day, the rights, privileges, obligations and liabilities of the Registrar-General.

### **Certificates as evidence**

**13.** A certificate issued by a Registrar or Deputy Registrar and in force immediately before the commencement day, is, on and after that day (except in relation to matters that occurred before that day), evidence of the matters stated in the certificate as if it had been issued by the Registrar-General.

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*Australia and New Zealand Banking Group Limited (NMRB) Act 1991*