

1992

**The Legislative Assembly of the Australian Capital Territory**

**Canberra Advance Bank Limited (Merger) Bill 1992**

**Explanatory Memorandum**

**Circulated by the Authority of the Chief Minister and Treasurer**

**Ms Rosemary Follett, MLA**

## **Canberra Advance Bank Limited (Merger) Bill 1992**

### **Explanatory Memorandum**

#### **Preamble**

This Bill recites the present relationship between the Canberra Advance Bank ("CAB") and the Advance Bank of Australia ("ABA"), the proposals for the merger of CAB with ABA and the aims of the legislation.

#### **Outline**

This Bill enables the Canberra Advance Bank to be integrated with the Advance Bank of Australia. This legislation provides for the transfer of certain banking business and goodwill and liabilities in the Australian Capital Territory in connection with the merger of CAB with ABA.

#### **Part 1 - Preliminary**

Clause 1 states the short title of the Bill.

Clause 2 provides that section 1 and 2 of the Act will come into operation on the day on which it is notified in the Gazette but all other remaining provisions will commence on 1 June 1992.

Clause 3 is the interpretation clause and contains definitions of terms used in the Bill.

Clause 4 defines the "undertaking of CAB" for the purposes of determining the business to be vested in ABA under section 7 of the Act.

Clause 5 provides for the fixing of the appointed day on which vesting of the undertaking of CAB in ABA will take place.

Clause 6 declares that the Act binds the Crown.

## **Part 2 - Vesting of Undertaking of CAB in ABA**

### **Division I - General**

Clause 7 provides for the vesting of the undertaking of CAB in ABA on an appointed day, that the Act provides evidence of such vesting and obliges CAB to take steps to secure the transfer of any portion of its undertaking not vested under the Act.

Clause 8 provides that contracts and other legal arrangements with CAB (not relating to property not included as part of the undertaking or superannuation or similar funds) are to be binding on or are enforceable by or against ABA.

Clause 9 provides that nothing in the Act prevents ABA from agreeing to pay any or any further consideration to CAB for the property vested by the proposed Act.

### **Division II - Transitional**

Clause 10 gives effect to the transitional provisions contained in proposed sections 11 - 15.

Clause 11 provides for the continuation after the appointed day of the relationship of banker and customer between CAB and its customers as relationships between ABA and those customers.

Clause 12 provides for the transfer of certain securities from CAB to ABA.

Clause 13 sets out the rights of ABA in relation to the transferred securities.

Clause 14 provides for the transfer of bailment arrangements from ABA to CAB.

Clause 15 provides for negotiable and other instruments involving CAB to be effective as if relating to ABA.

### **Division III - Legal and evidentiary matters**

Clause 16 provides for the preservation of legal proceedings commenced by or against CAB before the appointed day or which related to agreements, arrangements or undertakings entered into or matters done or omitted to be done by or before the appointed day except in relation to property that was not part of the undertaking of CAB and provides for the continuation of such proceedings by or against the ABA.

Clause 17 enables the amendment, without cost, of references in documents in proceedings relating to property that was not part of the undertaking of CAB from ABA to CAB and for the continuation of such proceedings against CAB.

Clause 18 provides that evidence which could have been used for or against CAB can be used for or against ABA.

Clause 19 provides, from the appointed day, for references to CAB or building societies previously taken over by CAB in Acts (other than the proposed Act) or documents to be read as references to ABA except in relation to property that was not part of the undertaking of CAB or where the context otherwise requires.

### **Part 3 - General**

Clause 20 provides that nothing effected by the proposed Act or done or suffered by CAB or ABA under the proposed Act is to be regarded as placing them in breach, making them commit a wrong, or enabling termination or release of any agreement with them.

Clause 21 provides that service of a document on one bank may be taken, in specified instances, to be service on another and that the clause ceases to have any effect on CAB ceasing to be a subsidiary of ABA within the meaning of section 9 of the Corporations Law.

Clause 22 provides protection for persons who deal with ABA in relation to property that was not part of the undertaking of CAB on the appointed day.

Clause 23 provides that the Chief Executive Officer of ABA may certify whether specified property or liabilities formed or did not form part of the undertaking of CAB.

Clause 24 enables ABA to deal with land vested by this Act without being required to be referred to in any relevant title documents.

Clause 25 removes the need for a form to be lodged under the Corporations Law of the ACT in relation to each registered charge which, by virtue of the Act, is vested in ABA.

Clause 26 has a similar effect to clause 24 (except that it relates to property other than property to which clauses 24 and 25 apply) in that it avoids the need for certificates or forms to be lodged in relation to each asset transferred.

Clause 27 provides that certificates given under the Act are to be conclusive unless the contrary is established.

Clause 28 provides that nothing in the Act exempts ABA from the provisions of any Act relating to companies carrying on the business of banking.

Clause 29 provides that no tax, fee or other charge is payable in respect of any document, instrument or transaction arising out of this Act or any corresponding law of any State or Territory, other than a fee or charge payable to the Registrar-General.

#### **Schedule 1 - Previous Building Societies and other Bodies**

Schedule 1 contains a list of building securities and other bodies whose interests were taken over by CAB and references to which are deemed to be references to ABA.