

**Version
as at 28 October 2021**



Australia and New Zealand Banking Group Act 1970

Private Act	1970 No 1
Date of assent	24 August 1970
Commencement	see section 1(2)

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

Schedule

9

**Provisions of the Australia and New Zealand Banking Group
Act 1970 of the Parliament of the United Kingdom**

An Act to supplement the Australia and New Zealand Banking Group Act 1970 of the Parliament of the United Kingdom by making the transfer of the undertaking of Australia and New Zealand Bank Limited to Australia and New Zealand Banking Group Limited fully effective in New Zealand

Preamble

Whereas Australia and New Zealand Bank Limited (hereinafter referred to as the **existing bank**), Australia and New Zealand Banking Group Limited (hereinafter referred to as the **Bank**), and The English, Scottish and Australian Bank, Limited are incorporated in England and are companies within the meaning of the Companies Acts 1948 to 1967 of the Parliament of the United Kingdom:

And whereas the existing bank carries on the business of banking in New Zealand and elsewhere:

And whereas by a scheme of arrangement sanctioned under section 206 of the Companies Act 1948 of the Parliament of the United Kingdom and which took effect on 23 June 1969, the existing bank and The English, Scottish and Australian Bank, Limited became wholly-owned subsidiaries of the Bank:

And whereas the said scheme of arrangement was proposed with a view to the merger of the undertakings of the existing bank and The English, Scottish and Australian Bank, Limited:

And whereas by the Australia and New Zealand Banking Group Act 1970 of the Parliament of the United Kingdom provision is made (*inter alia*) for the transfer to and vesting in the Bank of the undertakings of the existing bank and The English, Scottish and Australian Bank, Limited so that such transfer and vesting may be effected economically and without interference with the conduct and continuity of the business of banking:

And whereas portions of those undertakings cannot be vested in the Bank by virtue of the said Act of the Parliament of the United Kingdom because transfers of those portions are governed otherwise than by a law of a part of the United Kingdom:

And whereas legislation is the only means by which the transfer to the Bank of the portion of the undertaking of the existing bank which is governed by the laws of New Zealand can be effected economically and without interference with the conduct and continuity of the business of banking:

And whereas the said Act of the Parliament of the United Kingdom contains (*inter alia*) the provisions set forth in the Schedule.

1 Short Title and commencement

- (1) This Act may be cited as the Australia and New Zealand Banking Group Act 1970.
- (2) This Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Order in Council.
- (3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 1(2): this Act brought into force, on 1 October 1970, by clause 2 of the Australia and New Zealand Banking Group Act Commencement Order 1970 (SR 1970/186).

Section 1(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

2 Enactments

- (1) In this Act **enactment** means an enactment in—
 - (a) this Act; or
 - (b) any other Act of the Parliament of New Zealand; or
 - (c) any Act of the Parliament of England, of the Parliament of Great Britain, or of the Parliament of the United Kingdom, which is in force in New Zealand; or
 - (d) any regulations, rules, Order in Council, bylaw, notice, or instrument, made under the authority of any such Act and in force in New Zealand; or
 - (e) any Proclamation.
- (2) Any reference in this Act to any enactment shall be construed as a reference to that enactment as applied, extended, or amended by or by virtue of any subsequent enactment including any enactment in this Act.

Section 2(1)(b): amended, on 1 January 1987, pursuant to section 29(2) of the Constitution Act 1986 (1986 No 114).

3 Interpretation

- (1) In this Act, and in the provisions of the Scheduled Act which by virtue of subsection (1) of section 5 have effect as part of the law of New Zealand, unless the context otherwise requires,—

the appointed day means the day appointed for the commencement of this Act

the Bank means Australia and New Zealand Banking Group Limited

excluded assets means any land situated in New Zealand which is vested in, belongs to, is held by, or is registered in the name of the existing bank otherwise than in the capacity of trustee or by way of security and **excluded asset** shall be construed accordingly

the existing bank means Australia and New Zealand Bank Limited

instrument by way of security shall have the meaning assigned to it in section 2 of the Chattels Transfer Act 1924

land shall have the meaning assigned to it in section 2 of the Land Transfer Act 1952

Scheduled Act means the Australia and New Zealand Banking Group Act 1970 of the Parliament of the United Kingdom

security means a mortgage or submortgage (whether legal or equitable), charge, debenture, instrument by way of security, 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.

- (2) In this Act, unless the context otherwise requires, any term which is not defined in subsection (1) of this section but which is defined in section 4 of the Scheduled Act shall have the meaning attributed to that term by that section.

4 Act to bind the Crown and other persons

This Act shall bind the Crown and every person (including any body politic or corporate) whose rights are affected by any provision of this Act.

5 Provisions of Scheduled Act adopted

- (1) On and after the appointed day the provisions of subsection (1) of section 6, subsection (1) of section 7, and section 8 (except paragraph (b) of that section) of the Scheduled Act interpreted, subject to section 3 of this Act, in the manner required by section 4 of the Scheduled Act shall have effect as part of the law of New Zealand.
- (2) Without either extending or restricting the operation of subsection (1), it is hereby declared that—
- (a) any security made, given, or executed in the name or in favour of, and held by, the existing bank as security for the payment of debts or the discharge of obligations or liabilities (whether present or future, actual or contingent) of any person shall on and after the appointed day be deemed to have been transferred to the Bank by virtue of this Act and shall be held by and be available to the Bank as security for the payment of the debts or the discharge of the obligations or liabilities in respect of which the security was held by the existing bank immediately before that day including future advances to the said person by, and future debts, obligations, or liabilities of the said person to, the Bank to the same

extent to which future advances by, or future debts, obligations, or liabilities to, the existing bank were secured thereby immediately before the appointed day; and

- (b) that subsection shall not operate to terminate any contract of employment to which that subsection applies for the purpose of any enactment or other rule of law that may be relevant.

6 Actions, etc, by or against existing bank not to abate

- (1) This section shall apply to—

- (a) any action, arbitration, or proceeding or cause of action, arbitration, or proceeding which immediately before the appointed day is pending or existing by, against, or in favour of the existing bank:
- (b) any cause of action, arbitration, or proceeding by, against, or in favour of the existing bank arising on or after the appointed day but arising in respect of a contract made by the existing bank before the appointed day or arising in respect of anything done or omitted to be done by the 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.

7 Actions, etc, relating to excluded assets of existing bank

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 the existing bank as party, and no order shall be made against any party so amending to pay to the Bank or to the existing bank any costs occasioned by such amendment, and the action, arbitra-