

(Reprint No. 2)

SOUTH AUSTRALIA

STATE BANK OF SOUTH AUSTRALIA ACT, 1983

This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at 3 December 1992.

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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STATE BANK OF SOUTH AUSTRALIA ACT, 1983

being

State Bank of South Australia Act, 1983, No. 105 of 1983 [Assented to 22 December 1983]¹

as amended by

State Bank of South Australia Act Amendment Act, 1984, No. 27 of 1984 [Assented to 10 May 1984]

State Bank of South Australia (Investigations) Amendment Act 1991 No. 9 of 1991 [Assented to 28 March 1991]

State Bank of South Australia (Investigations) Amendment Act 1992 No. 86 of 1992 [Assented to 3 December 1992]²

An Act to provide for the amalgamation of The Savings Bank of South Australia and the State Bank of South Australia and the formation, by the amalgamation, of a new Bank; to repeal the Savings Bank of South Australia Act, 1929, and the State Bank Act, 1925; and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *State Bank of South Australia Act, 1983*.

Commencement

2. (1) This Act shall come into operation on a day to be fixed by proclamation.
(2) A proclamation shall not be made under subsection (1) unless the Governor is satisfied that legislative provision has been made in relation to the rights and interests of the officers of the Bank.

Interpretation

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

“accounting records” means all financial records necessary for the preparation of proper accounts and includes working papers and other documents necessary to explain the methods and calculations by which accounts are made up:

¹Came into operation 1 July 1984; *Gaz.* 7 June 1984, p. 1526.

²Came into operation (except s. 3) on assent: s. 2(1); s. 3 came into operation 28 March 1991: s. 2(2).

Note: 1. Asterisks indicate repeal or deletion of text.

2. For the legislative history of the Act see Appendix. Entries appearing in the Appendix in bold type indicate the amendments incorporated since the last reprint.

“accounts” means, according to context—

(a) customers’ accounts;

or

(b) statements of income and expenditure and balance sheets, including notes (other than reports of the Board or the auditors of the Bank) attached to, or intended to be read with, any such accounts:

“the amalgamating banks” means The Savings Bank of South Australia established by *The Savings Bank Act of 1875* and the State Bank of South Australia established by the *State Bank Act, 1925*:

“the Bank” means the State Bank of South Australia constituted under this Act:

“bill of exchange” means—

(a) a cheque or other order for the payment of money;

(b) a promissory note;

or

(c) any other instrument for the payment of money:

“the Board” means the Board of the Bank:

“the Chief Executive Officer” means the person holding or acting in the office of chief executive officer of the Bank:

“customer” means a person who has an account with the Bank, or who avails himself of any service provided by the Bank:

“housing loan” means a loan for the purchase, construction, renovation or improvement of a dwelling-house:

“land” includes any estate or interest in land:

“officer” means an officer or employee of the Bank:

“securities” includes shares, stock, debentures, bonds and unsecured notes.

Repeal and transitional provisions

4. (1) The following Acts are repealed:

(a) the *Savings Bank of South Australia Act, 1929*;

(b) the *State Bank Act, 1925*.

(2) The provisions of the first schedule to this Act are incorporated with, and shall be read as part of, this Act.

Act binds Crown

5. This Act binds the Crown.

PART II

CONSTITUTION AND ADMINISTRATION OF THE BANK

DIVISION I—ESTABLISHMENT OF THE BANK

Establishment of the Bank

6. (1) There shall be a Bank entitled the "State Bank of South Australia".
- (2) The Bank—
- (a) shall be a body corporate with perpetual succession and a common seal;
 - (b) shall be capable of suing and being sued in its corporate name;
 - (c) shall have the powers and functions conferred or assigned by or under this Act.
- (3) The Bank holds its property for and on behalf of the Crown.
- (4) Notwithstanding that the Bank is an instrumentality of the Crown, the Bank is liable to rates, taxes and other imposts under the law of the State as if it were not such an instrumentality.
- (5) Where a document appears to bear the common seal of the Bank, the document shall be presumed in legal proceedings, in the absence of evidence to the contrary, to have been duly executed by the Bank.

DIVISION II—THE BOARD OF DIRECTORS

Membership of the Board

7. (1) There shall be a Board of Directors of the Bank.
- (2) The Board shall consist of not less than six nor more than nine persons appointed by the Governor as Directors of the Bank.
- (3) The Chief Executive Officer of the Bank is eligible for appointment as a Director of the Bank.
- (4) One of the Directors shall be appointed by the Governor as the Chairman, and another shall be appointed as the Deputy Chairman, of the Board.

Term of office

8. (1) Subject to this section, a Director of the Bank shall be appointed for such term of office (not exceeding five years), and upon such conditions, as are specified in the instrument of his appointment.
- (2) If the Chief Executive Officer is appointed as a Director of the Bank, his term of office as Director is not subject to the limitation prescribed by subsection (1) but shall not exceed his term of office as Chief Executive Officer.
- (3) At the expiration of a term of office, a Director is eligible for re-appointment as such.
- (4) A person who is to fill a casual vacancy in the office of a Director shall be appointed only for the balance of the term of his predecessor.

Casual vacancies

9. (1) The office of a Director becomes vacant if—
- (a) he dies;
 - (b) his term of office expires;

- (c) he resigns his office by notice addressed to the Governor;
 - or
 - (d) he is removed from office under subsection (2).
- (2) The Governor may remove a Director from office if—
- (a) he becomes mentally or physically incapable of carrying out satisfactorily the duties of his office;
 - (b) he is convicted of an indictable offence;
 - (c) he is guilty of neglect of duty;
 - (d) he becomes bankrupt or applies to take the benefit of a law for the relief of bankrupt or insolvent debtors;
- or
- (e) he contravenes a condition of his appointment.

Directors' remuneration

10. A Director (not being the Chief Executive Officer) shall be entitled to such remuneration as may be determined by the Governor.

Disclosure of interest

11. (1) Subject to subsection (2), a Director who has a direct or indirect pecuniary interest in a proposal before the Board—

- (a) shall, as soon as he becomes aware of the proposal, disclose the nature of his interest to the Board;

and

- (b) shall not take part in any deliberations or decision of the Board with respect to that proposal.

(2) No disclosure is required under subsection (1)—

- (a) in respect of an interest that arises by virtue of the fact that the Director is a customer of the Bank (being an interest that is shared in common with other customers of the Bank);

or

- (b) in respect of an interest—

- (i) that arises by virtue of the fact that the Director has a shareholding (not being a substantial shareholding within the meaning of Division 4 of Part IV of the *Companies (South Australia) Code*) in a public company;

and

- (ii) that is shared in common with the other shareholders in that company.

(3) A Director who fails to comply with subsection (1) is guilty of a summary offence and liable to a penalty not exceeding five thousand dollars.

(4) A disclosure made under this section shall be recorded in the minutes of the Board.

