Western Australia

Australia and New Zealand Banking Group Limited (Town & Country) Act 1995

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Defined terms

Western Australia

Australia and New Zealand Banking Group Limited (Town & Country) Act 1995

An Act to provide for the transfer to Australia and New Zealand Banking Group Limited of the banking business of Town and Country Bank Limited and for connected purposes.

Reasons for enactment

1. Town & Country Bank Limited A.C.N. 053 814 378 ("Town & Country") is a company incorporated in Western Australia and is a company within the meaning of the Corporations Law [1] and is a company limited by shares.
2. Australia and New Zealand Banking Group Limited A.C.N. 005 357 522 ("ANZ") is a company deemed to be incorporated in Victoria and is a company within the meaning of the Corporations Law [2] and is a company limited by shares.
3. ANZ carries on the business of banking throughout Australia and elsewhere in the world, and Town & Country carries on the business of banking in Western Australia.
4. ANZ Funds Pty Ltd A.C.N. 004 594 343 ("ANZ Funds") is a wholly owned subsidiary of ANZ.
5. On 30 July 1990 ANZ Funds became the beneficial owner of the whole of the issued share capital of Town & Country and since that date Town & Country has been a wholly owned subsidiary of ANZ Funds.
6. On 30 September 1991 the Governor-General of Australia granted to Town & Country an authority to carry on banking business in Australia on condition that its banking business was transferred to ANZ in due course.

7. Accordingly it is necessary and expedient to transfer the banking business of Town & Country to ANZ, but at the same time facilitating the preservation of the character of the business of Town & Country.
8. On 8 May 1995 the Treasurer of Australia consented pursuant to section 63 of the Banking Act 1959 of the Commonwealth to the amalgamation of the banking business of Town & Country with that of ANZ.
9. It is expedient to enact legislation to provide for the vesting of the banking business of Town & Country in ANZ.

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Australia and New Zealand Banking Group Limited (Town & Country) Act 1995*.

2. Commencement

(1) Subject to subsections (1) and (2), this Act comes into operation on such day as is fixed by proclamation.

(2) The day fixed under subsection (1) is to be after the day that a certificate is given by the Treasurer under section 13.

(3) Sections 3 and 13 come into operation on the day on which this Act receives the Royal Assent.

3. Interpretation

(1) In this Act —

ANZ means Australia and New Zealand Banking Group Limited;

appointed day means the day fixed under subsection (2);

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 that officer in writing;

excluded assets means —

(a) any document required to be kept by Town & Country under the Corporations Law [1] or any other law;

(b) any land which, immediately before the appointed day, is vested in, belongs to, or is held by, Town & Country 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) any land which, immediately before the appointed day, is held by Town & Country in its capacity as unpaid

vendor of that land, and any rights and liabilities of Town & Country in respect of contracts or other agreements for the sale of that land;

(d) shares held by Town & Country in, and loans made by Town & Country to —

(i) Guaranty Finance Insurance Pty Ltd (ACN: 008 680 055);

(ii) Town & Country Properties Ltd (ACN: 009 165 075);

(iii) T & C Management Pty Ltd (ACN: 008 677 825);

(iv) T & C Technology Pty Ltd (ACN: 009 303 511);

(v) Glencove Pty Ltd (ACN: 009 466 228); and

(vi) Town & Country Housing Bonds Ltd (ACN: 003 311 537);

(e) shares held by Town & Country in —

(i) Topgard Pty Ltd (ACN: 003 815 423);

(ii) Westland Management Limited (ACN: 009 029 216); and

(iii) Meadow Springs Fairway Village Pty Ltd (ACN: 008 441 696);

(f) units held by Town & Country in —

(i) Town & Country Housing Trust (PIN: 064 630 600) a Trust created by Deed dated 24 April 1987 between Town & Country Properties Ltd (ACN: 009 165 075) and National Mutual Life Nominees (ACN: 004 387 133); and

(ii) Town & Country Property Growth Trust (PIN: 064 478 904); a Trust created by Deed dated 30 October 1986 between Town & Country Properties Pty Ltd (ACN: 009 165 075) and T & C Management Pty Ltd (ACN: 008 677 825);

(g) all rights and liabilities of Town & Country under an Agreement dated 30 October 1989, between Town & Country (described in the agreement as Town & Country WA Building Society) and Quinns Development Pty Ltd (ACN: 009 419 265); which creates the partnership known as Quinns Estate Partnership; and

(h) all rights and liabilities of Town & Country under an Agreement dated 11 May 1990 between Town & Country (described in the agreement as Town & Country WA Building Society) and Satterley & Co Pty Ltd (ACN: 009 054 979);

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

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

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

register includes a book of registry and an index relating to registration;

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;

Town & Country means Town & Country Bank Limited;

Treasurer means the Treasurer of the State;

undertaking of Town & Country means the business and all of the property of Town & Country (except any excluded assets and any right or power of Town & Country relating to any excluded assets) 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.

(2) The Governor may, by order published in the *Gazette*, appoint a day for the purposes of this Act.

4. Act binds the Crown

This Act binds the Crown in right of the State and, so far as the legislative power of the Parliament permits, in all its other capacities.

Part 2 — Vesting of undertaking of Town & Country in ANZ

5. Vesting of undertaking

(1) On the appointed day the undertaking of Town & Country is by virtue of this Act divested from Town & Country and vested in ANZ.

(2) If any portion of the undertaking of Town & Country cannot be vested in ANZ by virtue of this Act because transfer of that portion is governed otherwise than by the law of the State, then Town & Country 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.

6. Effect of contracts and instruments

(1) All contracts, agreements, conveyances, deeds, leases, licences and other instruments or undertakings entered into by or made with, or addressed to, Town & Country (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, Town & Country, binding and of full force and effect in every respect in favour of, or against, ANZ, as fully and effectually as if, instead of Town & Country, ANZ had been a party to them or bound by them or entitled to the whole or any portion of the benefit of them.

(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 Town & Country is not by virtue only of this Act a director, secretary or auditor (as the case may be) of ANZ.

7. Transitional provisions

Without limiting sections 5 and 6, the following provisions have effect in relation to the banking business of Town & Country:

(a) The relationship between Town & Country 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 Town & Country and subsisting on or given after the appointed day is, unless and until revoked or cancelled, deemed to have been given to ANZ.

(b) Any security held by Town & Country as security for the payment of debts or liabilities (whether present or future, certain or contingent) of any person is transferred or 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, Town & Country 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 secured by the security, entitled to the same rights and priorities and subject to the same liabilities as Town & Country would

have been entitled and subject to, if the security had continued to be held by Town & Country.

(d) The custody of any document, goods or thing held by Town & Country as bailee for any other person at any office or branch or agency of Town & Country is transferred or deemed to be transferred to ANZ on the appointed day, and the rights and liabilities of Town & Country under any contract of bailment relating to the document, goods or thing are transferred or 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 Town & Country, or payable at any place of business of Town & Country, 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.

8. Business name

(1) On the appointed day, or the day on which Town & Country changes its name to a name other than "Town & Country Bank Limited", whichever is the later in time, the Commissioner (within the meaning of the *Business Names Act 1962*) shall register the business name "Town & Country Bank" as a business name of ANZ and for as long as the name is registered in relation to ANZ, ANZ shall be entitled to carry on business under that name, in accordance with the *Business Names Act 1962*, and may also carry on the same or a similar business under a different business name or names or its own name in the State.

(2) Before the registration of the business name "Town & Country Bank" ANZ shall make application under the *Business Names*

Act 1962 for registration of that name and shall comply with all relevant provisions of that Act relating to that application.

9. Legal proceedings

(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, Town & Country; and

(b) any cause of action, arbitration or proceeding by, against, or in favour of, Town & Country, which arises after the appointed day in respect of a contract made by Town & Country before the appointed day or which arises in respect of anything done or omitted to be done by Town & Country before the appointed day,

but does not apply to any action, arbitration or proceeding or to any cause of action 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, and 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 or against ANZ, in its own name as and when it might have been prosecuted, continued and enforced by or against Town & Country if this Act had not been enacted.

(3) Despite 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 legal or arbitral 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 Town & Country and ANZ, and the judgement, order or

award may, when so made or entered, be enforced against both Town & Country and ANZ.

10. Amendment of documents

(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 for the name of ANZ the name of Town & Country as party.

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

(3) The action, arbitration or proceeding is to be continued as if Town & Country had originally been made a party to it.

11. Evidence

(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 Town & Country 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 Town & Country are for the purposes of sections 89 to 96 of the *Evidence Act 1906* deemed to be, and to have been, bankers' books used in the ordinary business of ANZ.

(3) For the purposes of this section, ***bankers' books*** has the same meaning as in the *Evidence Act 1906*.

12. Construction of references

If any written law (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 Act contains any reference express or implied to Town & Country, 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 3 — General

13. Payment of amount in lieu of State taxes and charges

(1) ANZ is to pay to the Treasurer a sum equal to the amount of any tax or charge for which ANZ, in the opinion of the Treasurer, would have been liable under the law of the State as a result of the transfer of the banking business of Town & Country to ANZ but for this Act.

(2) The amount payable under subsection (1) is to be determined by the Treasurer in accordance with such principles as the Treasurer thinks appropriate.

(3) The Treasurer is to give a certificate to ANZ when satisfied that the sum due under subsection (1) is paid.

14. Effect of things done under this Act

Nothing effected by this Act or done or suffered by Town & Country or ANZ under this Act —

(a) is to be regarded as placing either of them in breach of contract or confidence or as otherwise making either of them guilty of a civil wrong;

(b) is to be regarded as placing either of them in breach of or as constituting a default under any written law or other law 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 regarded 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.

15. Leases, licences and other agreements

(1) Where, under the provisions of a lease, licence or other agreement which has not been transferred to ANZ under this Act, Town & Country has rights in respect of the occupation or use of land, those rights may, notwithstanding that there has been no assignment, transfer, underletting or other disposition by Town & Country, be exercised by ANZ.

(2) For the purposes of a lease, licence or other agreement referred to in subsection (1), Town & Country does not part with possession of land by permitting ANZ to exercise rights under that subsection in respect of the land.

16. Service of documents

(1) Service of a document on and after the appointed day —

(a) on ANZ is deemed to be service on Town & Country in addition to service on ANZ; and

(b) on Town & Country is deemed to be service on ANZ in addition to service on Town & Country.

(2) Subsection (1) ceases to have any force and effect upon Town & Country ceasing to be a related body corporate of ANZ within the meaning of section 9 of the Corporations Law [1].

17. Excluded assets

(1) No person dealing with ANZ or Town & Country (in any capacity whatsoever) nor the Registrar of Titles, 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, in respect of any dealing or transaction entered into or purporting to be entered into by ANZ or Town & Country, is 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, nor shall such person 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 with any person, in relation to or in connection with an excluded asset, it is to be deemed in favour of that person that ANZ has full power and authority to enter into that dealing or transaction as if the excluded asset had vested in ANZ under this Act.

(3) Nothing in this section affects the liability of ANZ to Town & Country in respect of anything done, or purporting to be done, by ANZ in relation to or in connection with an excluded asset.

18. Certificates may be issued

The Chief Executive Officer of ANZ may, by signed certificate, certify any matter in relation to the operation of this Act.

19. Interests in land in the Register Book

Where any land of which Town & Country is, or is deemed or taken to be, the registered proprietor is by virtue of this Act vested in ANZ, notwithstanding anything to the contrary in any written law or other law, ANZ is to be deemed to be the registered proprietor of the land for the purposes of the *Transfer of Land Act 1893* and the land may be dealt with accordingly.

20. Amendment of Register

The Registrar of Titles, on being requested to do so and on production of any relevant Crown Grant or duplicate certificate of title or other relevant instrument and payment of any relevant fees under the *Transfer of Land Act 1893*, shall make any amendments to the Register under that Act and to any Crown Grant, duplicate certificate of title, duplicate registered instrument or other document that are necessary because of the operation of this Act.

[Section 20 amended: No. 81 of 1996 s. 153(1).]

21. Certificates in relation to charges

Section 268(1) of the Corporations Law [1] is to be taken to have been complied with in respect of all charges of which ANZ becomes the holder by virtue of this Act if there is lodged with the Australian Securities Commission a certificate signed by the Chief Executive Officer of ANZ stating that by virtue of this Act the undertaking of Town & Country has become vested in ANZ.

22. Other property

Where —

(a) any property (other than property to which section 19, 20 or 21 applies) becomes, under this Act, the property of ANZ; and

(b) any person or authority has, under any written law, responsibility for keeping a register in respect of property of that kind,

then —

(c) any requirement of that written law relating to the transfer of such property from one person to another shall be taken 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 Town & Country has 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.

23. Certificates conclusive

(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, taken to be such a certificate and to have been properly given.

24. Application of banking laws

Nothing in this Act exempts ANZ from the provisions of any written law relating to companies carrying on the business of banking.

Notes

This is a compilation of the *Australia and New Zealand Banking Group Limited (Town & Country) Act 1995* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table. For provisions that have not yet come into operation see the uncommenced provisions table.

Compilation table

Short title	Number and year	Assent	Commencement
Australia and New Zealand Banking Group Limited (Town & Country) Act 1995	20 of 1995	29 Jun 1995	s. 3 and 13: 29 Jun 1995 (see s. 2(3)); balance: 1 Jul 1995 (see s. 2(1) and *Gazette* 30 Jun 1995 p. 2789)
Transfer of Land Amendment Act 1996 s. 153(1)	81 of 1996	14 Nov 1996	14 Nov 1996 (see s. 2(1))
Reprint 1: The *Australia and New Zealand Banking Group Limited (Town & Country) Act 1995* as at 10 Oct 2003 (includes amendments listed above)			

Uncommenced provisions table

To view the text of the uncommenced provisions see *Acts as passed* on the WA legislation website.

Short title	Number and year	Assent	Commencement
Evidence Act 2025 Pt. 12 Div. 3	15 of 2025	25 Sep 2025	18 Sep 2027 (see s. 2(e) and SL 2026/190 cl. 2)

Other notes

[1] The Corporations Law was superseded on 15 July 2001 by the *Corporations Act 2001* of the Commonwealth.

Defined terms

[This is a list of terms defined and the provisions where they are defined. The list is not part of the law.]

Defined term	Provision(s)
ANZ	3(1)
appointed day	3(1)
bankers' books	11(3)
Chief Executive Officer	3(1)
excluded assets	3(1)
land	3(1)
liabilities	3(1)
property	3(1)
register	3(1)
security	3(1)
Town & Country	3(1)
Treasurer	3(1)
undertaking of Town & Country	3(1)

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