



State Financial Institutions and Metway Merger Act 1996

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Queensland

State Financial Institutions and Metway Merger Act 1996

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State Financial Institutions and Metway Merger Act 1996

An Act to provide for particular requirements about the establishment of a major Queensland-based financial institution, and for other purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *State Financial Institutions and Metway Merger Act 1996*.

3 Definitions and dictionary

The dictionary in schedule 3 defines particular words used in this Act.

Part 2 Object and basic concepts

Division 1 Object

4 Objects of this Act

The objects of this Act are—

- (a) to provide for particular requirements about the merger of the State financial institutions mentioned in section 5 and Metway; and

[s 5]

- (b) to provide for particular requirements in relation to Suncorp's constitution and general obligations of Suncorp.

Division 2 Basic concepts

5 What is a State financial institution

For this Act each of the following is a State financial institution (*SFI*)—

- (a) QIDC as a company registered under the Corporations Law, part 2.2, division 3;

Editor's note—

Corporations Law, part 2.2 (Registration of companies), division 3 (Registering non-companies as companies) (rep 1998 sch 1 item 1 (Cwlth) effective 1 July 1998)

- (b) SIF as a company registered under the Corporations Law, part 2.2, division 3;
- (c) Suncorp Finance Limited (A.C.N. 009 705 417);
- (d) SBS;
- (e) a wholly-owned subsidiary of an entity mentioned in paragraph (a), (b), (c) or (d);
- (f) a company formed for holding some or all of the issued share capital, assets or liabilities of 1 or more of the entities mentioned in paragraphs (a) to (e).

6 What is the Metway scheme of arrangement

- (1) The *Metway scheme of arrangement* is the scheme or schemes of arrangement under the Corporations Law, part 5.1—
 - (a) between 1 or more SFIs and their members; and
 - (b) if a regulation declares another entity (a *scheme entity*) to be an entity for the Metway scheme of

arrangement—between the scheme entity and its members;

under which 1 or both of the following happen—

- (c) all, or substantially all, of the assets and liabilities of 1 or more SFIs, and the scheme entity (if any), are transferred to Metway;
 - (d) 1 or more SFIs, and the scheme entity (if any), become wholly-owned subsidiaries of Metway.
- (2) Subsection (1) does not, by implication, limit the matters that may be included in the Metway scheme of arrangement.

Part 6

Mandatory requirements regarding Suncorp's constitution

64 Suncorp's constitution to include particular provisions

- (1) The constitution of Suncorp must at all times require—
 - (a) the registered office of Suncorp to be located in Queensland; and
 - (b) at least 1 member of the board of directors to be ordinarily resident in Queensland; and
 - (c) the head office of Suncorp to be located in Queensland.
- (2) For subsection (1)(c) and the constitution, the head office of Suncorp is located in Queensland only if—
 - (a) the principal operational office of the chief executive officer is located in Queensland and the chief executive officer performs their role primarily in Queensland; and
 - (b) the chairperson has an office in Queensland; and
 - (c) each group corporate services activity is wholly or partly performed in Queensland; and

- (d) the usual location for the holding of Suncorp board meetings is in Queensland.
- (3) In this section—
- group corporate services activity*** means each of the following activities, however described, carried out in relation to Suncorp's Australian business—
- (a) activities of the chief executive's office;
 - (b) financial reporting, business development (including in relation to supporting mergers and acquisitions) and management of capital, investments and financial performance;
 - (c) risk management and compliance;
 - (d) legal and company secretariat;
 - (e) internal audit;
 - (f) technology and transformation strategy and management, including data analytics, digital enablement, cloud services, and information technology infrastructure and security;
 - (g) human resources;
 - (h) corporate affairs and government relations.

65 Inconsistent alterations to Suncorp's constitution have no effect

- (1) A special resolution of Suncorp that would, apart from this subsection, have the effect of altering Suncorp's constitution so that the constitution would not comply with section 64 has no effect.
- (2) A special resolution or resolution of Suncorp has no effect if the resolution would—
 - (a) if acted on and apart from this subsection—result in a contravention of the mandatory constitution provisions;or

- (b) apart from this subsection—ratify an act or omission contravening the mandatory constitution provisions.

66 Injunctions

- (1) Subsection (2) applies if Suncorp or another person has engaged, is engaging or is proposing to engage in conduct constituting—
 - (a) a contravention of the mandatory constitution provisions; or
 - (b) attempting to contravene the mandatory constitution provisions; or
 - (c) aiding, abetting, counselling or procuring a person to contravene the mandatory constitution provisions; or
 - (d) inducing or attempting to induce, whether by threats, promises or otherwise, a person to contravene the mandatory constitution provisions; or
 - (e) being in any way, directly or indirectly, knowingly concerned in, or party to, the contravention by a person of the mandatory constitution provisions; or
 - (f) conspiring with others to contravene the mandatory constitution provisions.
- (2) The Supreme Court may, on the application of the Treasurer, grant an injunction, on the terms the court considers appropriate, restraining Suncorp or the other person from engaging in the conduct and, if the court considers it appropriate, requiring Suncorp or the other person to do something.
- (3) If Suncorp or another person has failed, is failing or is proposing to fail to do something that Suncorp or the other person is required by the mandatory constitution provisions to do, the Supreme Court may, on the application of the Treasurer, grant an injunction, on the terms the court considers appropriate, requiring Suncorp or the other person to do the thing.

- (4) On an application for an injunction under subsection (2) or (3), the Supreme Court may, if the court considers it appropriate, grant an injunction by consent of all the parties to the proceeding, whether or not the court is satisfied subsection (2) or (3) applies.
- (5) If the Supreme Court considers it appropriate, the court may grant an interim injunction pending a decision on an application under subsection (2) or (3).
- (6) The Supreme Court may discharge or vary an injunction granted under this section.
- (7) The power of the Supreme Court to grant an injunction restraining Suncorp or another person from engaging in conduct may be exercised—
 - (a) whether or not it appears to the court that Suncorp or the other person intends to engage again, or to continue to engage, in conduct of that kind; and
 - (b) whether or not Suncorp or the other person has previously engaged in conduct of that kind; and
 - (c) whether or not there is an imminent danger of substantial damage to a person if Suncorp or the other person engages in conduct of that kind.
- (8) The power of the Supreme Court to grant an injunction requiring Suncorp or another person to do something may be exercised—
 - (a) whether or not it appears to the court that Suncorp or the other person intends to fail again, or to continue to fail, to do the thing; and
 - (b) whether or not Suncorp or the other person has previously failed to do the thing; and
 - (c) whether or not there is an imminent danger of substantial damage to a person if Suncorp or the other person fails to do the thing.
- (9) If the Treasurer applies to the Supreme Court for the grant of an injunction under this section, the court must not require the

Treasurer, as a condition of granting an interim injunction, to give an undertaking as to damages.

- (10) If the Supreme Court has power under this section to grant an injunction restraining Suncorp or another person from engaging in particular conduct, or requiring Suncorp or another person to do a particular thing, the court may, either in addition to, or in substitution for, the grant of the injunction, make any other order it considers appropriate against Suncorp or the other person who engaged in the conduct or a person who was involved in the contravention.

66A Suncorp chief executive officer to certify compliance

The chief executive officer of Suncorp must, no later than 31 July each year, give the Treasurer a certificate stating that—

- (a) throughout the 12-month period ending on the previous 30 June, Suncorp complied with section 64 and part 6A; and
- (b) throughout the 12-month period ending on the next 30 June, Suncorp does not propose to act in a way that would contravene section 64 or part 6A.

67 Delegation by Treasurer

The Treasurer may delegate the Treasurer's powers under this part to the chief executive of the department.

68 Jurisdiction of Supreme Court

The Supreme Court of Queensland has jurisdiction for matters arising under this part and that jurisdiction is exclusive of the jurisdiction of all other courts, other than the jurisdiction of the High Court under the Commonwealth Constitution, section 75.

69 Part 6 overrides Corporations Act

- (1) This part has effect despite the Corporations Act.
- (2) Without limiting subsection (1), if there is any conflict or inconsistency between this part and Suncorp's constitution, this part prevails.

Part 6A General obligations of Suncorp

69A Obligation to act consistently with mandatory constitution provisions

Suncorp must at all times act in a manner that is consistent with the mandatory constitution provisions, whether or not Suncorp has modified its constitution to include the mandatory constitution provisions.

69B Obligation to maintain registration

Suncorp must at all times—

- (a) maintain its status as a company registered with ASIC; and
- (b) refrain from doing any act or making any omission that would result in Suncorp ceasing to be registered as a company with ASIC.

69C Obligation to notify Treasurer of noncompliance

- (1) This section applies if Suncorp becomes aware of an act or omission, or of a proposed act or omission, that is or would be inconsistent with an obligation under this part.
- (2) Suncorp must immediately give the Treasurer written notice of the act or omission or of the proposed act or omission.

Part 6B **Application of particular provisions to entity acquiring Suncorp's Australian business**

69D **Application of pts 6 and 6A**

- (1) This section applies if an entity acquires all, or substantially all, of Suncorp's Australian business.
- (2) Parts 6 and 6A apply in relation to the entity as if a reference to Suncorp were a reference to the entity.

Part 7 **Guarantee of existing obligations**

70 **Obligation for existing QIDC liabilities**

- (1) This section applies only to matters done or not done by QIDC under the QIDC Act before the Metway amalgamation day.
- (2) If QIDC becomes liable to pay an amount because of something done or not done for a matter mentioned in subsection (1), the State has the same obligation for payment of the amount as it would have had under the QIDC Act if this Act had not been enacted.
- (3) This section does not apply to a liability of an SFI transferred to QIDC under repealed part 4 or 5 except to the extent QIDC becomes liable to pay an amount because of something done, or not done, by it under the QIDC Act after the transfer but before the Metway amalgamation day.

71 Obligation for existing insurance liabilities

- (1) This section applies only to policies or contracts of insurance or indemnity issued or entered into by SIF, or a wholly-owned subsidiary of SIF, under the Suncorp Act before the Metway amalgamation day.
- (2) Subject to subsection (3), if SIF, or a wholly-owned subsidiary of SIF, becomes liable to pay an amount for a policy or contract of insurance or indemnity mentioned in subsection (1), the State has the same obligation to pay the amount as it would have had under the Suncorp Act if this Act had not been enacted.
- (3) The State's obligation applies only to the amount that was, on the Metway amalgamation day, the maximum actual or contingent liability of SIF, or a wholly-owned subsidiary of SIF, for a policy or contract of insurance or indemnity mentioned in subsection (1).

72 Obligation for liabilities transferred from QIDC, SIF or a wholly-owned subsidiary of SIF

- (1) This section applies if the State has an obligation mentioned in section 70 or 71 to pay an amount and the liability in relation to the amount was transferred under repealed part 4 or 5 or the Metway scheme of arrangement from QIDC, SIF, or a wholly-owned subsidiary of SIF to another entity on or before the Metway amalgamation day.
- (2) The State has the same obligation to pay the amount as it would have had if the amount were payable under—
 - (a) section 70; or
 - (b) section 71.

73 No guarantee for future liabilities

To remove any doubt, on and from the Metway amalgamation day the State does not guarantee the payment of an amount, in relation to a liability of QIDC, SIF or a wholly-owned subsidiary of SIF, not mentioned in section 70, 71 or 72.

74 Appropriation of guaranteed amounts

- (1) This section applies if an amount becomes payable by the State because of section 70, 71 or 72.
- (2) The Treasurer may pay the amount from the consolidated fund without further appropriation.

75 Guarantee fee

- (1) If the State has an obligation to pay an amount under section 70 or 72(2)(a), the Treasurer may require QIDC, or the entity to which the liability in relation to the amount was transferred under repealed part 4 or 5 or the Metway scheme of arrangement, to pay fees to the State in relation to the State's obligation to pay the amount.
- (2) However, subsection (1) does not apply if the entity to which the liability was transferred is Metway or a related body corporate of Metway.
- (3) The fees mentioned in subsection (1) must be calculated at the rates of—
 - (a) for an amount that becomes due and payable within 1 year of the liability to repay the amount being incurred—0.05% per annum of the amount; and
 - (b) for an amount that becomes due and payable more than 1 year after the liability to repay the amount was incurred—0.20% per annum of the amount.
- (4) How and when the fees are to be paid is to be decided by the Treasurer.
- (5) A fee required to be paid under this section is a debt due to the State.

Part 8

Transitional provision for State Financial Institutions and Metway Merger Amendment Act 2024

76 Application of s 64

- (1) Suncorp is not required to comply with the obligation under section 64 until the day that is 6 months after the commencement.
- (2) References in other provisions to compliance with or contravention of section 64, or to the mandatory constitution provisions, must be read as being subject to subsection (1).
- (3) This section does not limit section 69A.

Schedule 3 Dictionary

section 3

assets includes rights and powers of any description, including rights and powers that are of a personal character and are incapable under the general law of being assigned or performed vicariously.

company means a company incorporated under the Corporations Act.

holding company see the Corporations Act, section 9.

Editor's note—

the Corporations Act, section 9—

holding company, in relation to a body corporate, means a body corporate of which the first body corporate is a subsidiary.

liabilities includes duties of any description, including duties that are of a personal character or are incapable under the general law of being assigned or performed vicariously.

mandatory constitution provisions means the provisions required in relation to Suncorp's constitution by section 64.

Metway means Suncorp-Metway Limited (ACN 010 831 722).

Metway amalgamation day means the day notified by a Treasurer's gazette notice as the day the Metway scheme of arrangement takes effect.

Editor's note—

The Metway amalgamation day is 1 December 1996 (see notice publ gaz 29 November 1996 p 1257).

Metway scheme of arrangement see section 6.

QIDC means Queensland Industry Development Corporation.

QIDC Act means the *Queensland Industry Development Corporation Act 1994*.

registered office see the Corporations Act, section 9.

related body corporate see the Corporations Act, section 9.

Editor's note—

the Corporations Act, section 9—

related body corporate, in relation to a body corporate, means a body corporate that is related to the first-mentioned body by virtue of section 50.

the Corporations Act, section 50—

Related bodies corporate

Where a body corporate is:

- (a) a holding company of another body corporate;
- (b) a subsidiary of another body corporate; or
- (c) a subsidiary of a holding company of another body corporate;

the first-mentioned body and the other body are related to each other.

repealed part 4 or 5, means part 4 or 5 as in force before the commencement of the *Treasury and Trade and Other Legislation Amendment Act 2013*, chapter 2, part 5.

resolution see the Corporations Act, section 9.

SBS means Suncorp Building Society Limited.

SFI see section 5.

SIF means Suncorp Insurance and Finance.

special resolution see the Corporations Act, section 9.

subsidiary see the Corporations Act, section 9.

Editor's note—

Corporations Act, section 9—

subsidiary, in relation to a body corporate, means a body corporate that is a subsidiary of the first-mentioned body by virtue of Division 6.

Suncorp means Suncorp Group Limited ACN 145 290 124.

Suncorp Act means the *Suncorp Insurance and Finance Act 1985*.

Suncorp's Australian business means the insurance business carried on in Australia by Suncorp or a related body corporate of Suncorp, other than the offering or underwriting of insurance outside Australia.

Treasurer's gazette notice means a notice by the Treasurer published in the gazette.

wholly-owned subsidiary—

- (a) of an SFI—includes a subsidiary of the SFI none of whose members is a person other than the SFI or a trustee for the SFI; and
- (b) in any other case—see the Corporations Act, section 9.

Editor's note—

the Corporations Act, section 9—

wholly-owned subsidiary, in relation to a body corporate, means a body corporate none of whose members is a person other than:

- (a) the first-mentioned body;
- (b) a nominee of the first-mentioned body;
- (c) a subsidiary of the first-mentioned body, being a subsidiary none of whose members is a person other than:
 - (i) the first-mentioned body; or
 - (ii) a nominee of the first-mentioned body; or
- (d) a nominee of such a subsidiary.