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LESOTHO BANK (1999) LIMITED
(VESTING) ACT 2000

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LESOTHO BANK (1999) LIMITED (VESTING) ACT 2000**ACT NO. 1 OF 2000**

An Act to provide for and effect the transfer and vesting of certain assets and liabilities of the Lesotho Bank (1999) Limited and to enable the holding of shares in Lesotho Bank (1999) Ltd by persons who are not citizens of Lesotho.

ENACTED BY THE PARLIAMENT OF LESOTHO**Short title and commencement**

1. This Act may be cited as the Lesotho Bank (1999) Limited (Vesting) Act 2000 and shall be deemed to have come into operation on 2nd August, 1999.

Interpretation

2. In this Act, unless the context otherwise requires-
 - “customer” means any person having a banking account or other dealing, transaction or arrangement with Lesotho Bank in the course of the business of that bank, immediately before the vesting date;
 - “immovable property” means any land or buildings thereon leased to, or registered in, the name of the Lesotho Bank;
 - “lease” means a lease over any immovable property to the Lesotho Bank;
 - “Lesotho Bank” means the bank established by the Lesotho National Development and Savings Bank Order 1971¹;
 - “Lesotho Bank (1999) Limited” means the company of that name incorporated with limited liability in Lesotho for the purpose of carrying on the business of banking conducted in Lesotho by the existing bank known as Lesotho Bank, immediately before the vesting date;
 - “liabilities” means any liability or indebtedness to any person whatsoever due by, or owing by, the Lesotho Bank;
 - “security” means a mortgage or pledge, lien or cession as security or any other charge existing under the laws of Lesotho;
 - “the Agreement” means the agreement between the Government of the Kingdom of Lesotho, Lesotho Bank, Lesotho Bank (1999) Limited and Standard Bank Lesotho Limited for the sale and transfer to Lesotho Bank (1999) Ltd of assets and liabilities and business of Lesotho Bank;
 - “undertakings of the Lesotho Bank” means the banking business and business presently conducted by Lesotho Bank;
 - “vesting” and “vest” include the vesting in Lesotho Bank (1999) Ltd of any lease over immovable property in favour of Lesotho Bank;

- “vesting date” means the 2nd August 1999 the date for vesting and transfer of assets and liabilities in and to Lesotho Bank (1999) Limited, set out in the Agreement.

Shareholding

3. Notwithstanding any law to the contrary, including without limitation of section 25(1)(f) of the Financial Institutions Act 1999², the acquisition and holding of shares by Standard Bank Lesotho Limited of the issued share capital of Lesotho Bank (1999) Limited and any increase of further issue or allotment of shares or acquisition of shares in Lesotho Bank (1999) Limited to or by Standard Bank Lesotho Limited or any of its subsidiaries from time to time and at any time, shall be deemed to be valid and effective.

Transfer of the business

4. On the vesting date, the commercial undertaking of the Lesotho Bank, together with certain of its assets and liabilities, rights and obligations referred to in the Agreement, which assets and liabilities are described in section 10 shall be transferred to and become vested in Lesotho Bank (1999) Limited.

Transfer of assets

5. (1) With effect from the vesting date, the immovable and movable assets referred to in section 10, shall be deemed to be transferred to, and vest in, Lesotho Bank (1999) Limited in accordance with the terms of the Agreement.

(2) A transfer and vesting shall—

- (a) not be construed as a breach of any contract or condition against alienation, whether personal or otherwise, attaching to any such property transferred or vested;
- (b) not give rise to any forfeiture;
- (c) not invalidate or discharge any contract or security;
- (d) operate notwithstanding any caveat, interdict, caution or warning made, entered or registered under any law relating to dealings in land; and
- (e) operate notwithstanding the Land Act 1979³.

(3) Any specified contract, conveyance, deed, lease, license, undertaking or any instrument in respect of the assets transferred to Lesotho Bank (1999) Limited and in force immediately before the commencement date of this Act shall, on the vesting date, be binding and of force and effect against or in favour of Lesotho Bank (1999) Limited.

Assumption of liabilities

6. (1) With effect from the vesting date, the liabilities referred to in section 10

shall be deemed to be assumed by, and become vested in, Lesotho Bank (1999) Limited.

(2) Section 5(2) and (3) shall apply to such assumption and vesting, mutatis mutandis, as if repeated herein.

Litigation

7. (1) Lesotho Bank (1999) Limited shall be substituted as litigating party for Lesotho Bank on the vesting date in all pending litigation, including arbitrations, as if Lesotho Bank (1999) Limited had been the litigant from the beginning, in respect of assets and liabilities referred to in section 10 and also in respect of any litigation commenced on or after the vesting date against Lesotho Bank arising from business undertaken on or after the vesting date.

(2) Where, pursuant to this Act, any right or liability has become a right or liability of Lesotho Bank (1999) Limited, then Lesotho Bank (1999) Limited and all other persons shall, with effect from the vesting date, have the same rights, powers and remedies, including the same rights and powers to institute or defend any legal proceedings or any application to any lawful authority and for ascertaining, perfecting or enforcing such right or liability as if it had at all times been a right or liability of Lesotho Bank (1999) Limited.

(3) No legal proceedings, arbitration proceedings or application to any lawful authority pending immediately before the vesting date (in respect of those assets and liabilities to be transferred to, and vested in, Lesotho Bank (1999) Limited in terms of section 10), by or against Lesotho Bank shall be suspended, terminated or in any way affected by reason of any of the provisions of this Act, but they shall be prosecuted or continued by, or against, Lesotho Bank (1999) Limited.

(4) Any judgement or award that has been obtained by, or against, Lesotho Bank (in respect of those assets and liabilities to be transferred to, and vested in, Lesotho Bank (1999) Limited in terms of section 10) and not fully satisfied before the vesting date shall, with effect from that day, be enforceable by, or against, Lesotho Bank (1999) Limited.

Contracts

8. Lesotho Bank (1999) Limited shall be substituted as contracting party for the Lesotho Bank on the vesting date in all contracts as if Lesotho Bank (1999) Limited had been the contracting party from the beginning, in respect of assets and liabilities referred to in section 10.

Trust property

9. (1) Any property which, immediately before the vesting date was held by Lesotho Bank, whether solely or jointly with any other person—

(a) as trustee under any trust deed, settlement, contract, will or order

- of any court and whether originally so appointed or not;
- (b) as executor of the will of any person;
 - (c) as administrator of the estate of any deceased person;
 - (d) as guardian or curator of the estate of any infant or any person suffering from mental incapacity;
 - (e) as receiver of any property, whether appointed under a deed of debenture or by any court or otherwise;
 - (f) as trustee or liquidator of the estate of any insolvent person or company; or
 - (g) in any fiduciary capacity whatsoever,

shall, with effect from the vesting date, be held by Lesotho Bank (1999) Limited, whether solely or jointly with any other person in the same capacity, upon the same trusts, and with, and subject to, the same powers, provisions and liabilities applicable thereto.

(2) Any existing instrument or order of any court under, or by virtue of which, any property became vested in Lesotho Bank in any capacity mentioned in sub section (1) or any existing contract or arrangement for the payment to attention by Lesotho Bank of remuneration of its services in any such capacity shall, with effect from the vesting date, be construed and have effect so far as the context permits, as if the reference to Lesotho Bank (other than a reference however worded and whether express or implied to terms and conditions or to a scale of fees of Lesotho Bank), as a reference to Lesotho bank (1999) Limited.

Publication of transferred assets and liabilities

10. The assets and liabilities referred to in the Agreement which shall be vested in, and transferred to, Lesotho Bank (1999) Limited shall be assets and liabilities of Lesotho Bank as may be prescribed by the Minister by notice published in the Gazette.

Banking business

11. (1) An account transferred in terms of section 10 and which has been opened between Lesotho Bank and a customer shall, with effect from the vesting date, become an account between Lesotho Bank (1999) Limited and that customer, with the same rights and subject to the same liabilities and incidents (including the rights of set off) as would have been applicable if the account between Lesotho Bank and that customer had continued and any existing instruction, order, direction, mandate or authority given by that customer in relation to that account shall continue to have full force and effect and that account shall, for all purposes, be deemed to be a single, continuing account:

Provided that nothing in this sub-section shall affect the right of Lesotho Bank (1999) Limited or of any customer of Lesotho Bank (1999) Limited to vary the conditions and incidents subject to which any account is kept.

(2) Any security held by Lesotho Bank for the due payment of any liability

of any person which is transferred to Lesotho Bank (1999) Limited pursuant to this Act shall, with effect from the vesting date, be held by, and be available to, Lesotho Bank (1999) Limited for payment of that liability to Lesotho Bank (1999) Limited and if the money or obligation secured by that security includes any future advance to, or liability of, that person, that security shall, as from that day, be held and be available to Lesotho Bank (1999) Limited as security for that future advance or liability, to the same extent to which any future advance by, or liability to, Lesotho Bank was secured before the vesting date.

(3) No transfer effected by this Act of any security mentioned in sub-section (2) shall operate as a release.

(4) Lesotho Bank (1999) Limited shall, in relation to any security transferred to it, pursuant to this Act and the money thereby secured, be entitled to the same rights and preferences and be subject to the same liabilities and obligations as those to which Lesotho Bank would have been entitled or been subject, if it had continued to be held by Lesotho Bank.

(5) The custody or control of any document, goods or other property (in respect of those assets and liabilities transferred under section 10) held by Lesotho Bank on behalf of any other person at any of its offices or branches in Lesotho, shall be transferred to the custody or control of Lesotho Bank (1999) Limited on the vesting date and the respective rights and liabilities of Lesotho Bank under any contract of custody or control relating to such document, goods or property, shall be transferred to Lesotho Bank (1999) Limited on that day.

(6) Any negotiable instrument or order for the payment of money whether drawn, given, accepted or endorsed before, on or after the vesting date and which is given in respect of any of those assets and liabilities to be transferred and vested in terms of section 10 in Lesotho Bank (1999) Limited, which is expressed to be drawn on, given to, or accepted by, or endorsed by, Lesotho Bank or payable at its place or places of business shall, with effect from the vesting date, have the same effect as if it had been drawn on, given to, or accepted or endorsed by, Lesotho Bank (1999) Limited, or payable at the same place or places of business of the Lesotho Bank (1999) Limited.

Wills

12. (1) If, on or after the vesting date any person dies leaving property in Lesotho and a will, whether executed before, on or after, the vesting date, appoints Lesotho Bank to be the executor or administrator of that property, such appointment shall be read and construed as the appointment of Lesotho Bank (1999) Limited as executor or administrator, as the case may be, unless the will otherwise provides.

(2) No testamentary disposition shall be invalidated by reason only of the operation of any of the provisions of this Act.

Exemption from stamp duties

13. No transfer, stamp or other duty, no sales tax penalty impost of any nature and no registration fee, filing fee or other fee or tax of any nature shall be charged or become payable solely on account of any transfer and vesting of any property under this Act.

Evidence of books, documents, etc.

14. All documents, records and admissions which would, before the vesting date, have been evidence in respect of any matter for or against Lesotho Bank (in respect of any asset or liability to be transferred to or vested in Lesotho Bank (1999) Limited in terms of section 10) shall, with effect from the vesting date be, admissible in evidence for or against Lesotho Bank (1999) Limited.

Registration of transfers (Transfers deemed to be registered under LB (1999) Ltd.)

15. (1) All property which is transferred to, and vested in, Lesotho Bank (1999) Limited pursuant to this Act on the vesting date and which was registered in the name of Lesotho Bank shall, on the vesting date, be deemed to be registered in the name of Lesotho Bank (1999) Limited, pursuant to the Deeds Registry Act, 1967⁴.

(2) The Registrar of Deeds shall endorse any lease in terms of the Land Act 1979 or Deed of Transfer or any other deed evidencing the rights of Lesotho Bank to immovable property in Lesotho (transferred to, or vested in, Lesotho Bank (1999) Limited, in terms of section 10 hereof) to the effect that such properties are registered in the name of Lesotho Bank (1999) Limited from the vesting date.

Treasury bills and bonds

16. Where the Government of Lesotho issues to Lesotho Bank (1999) Limited any treasury bill or bond, in terms of the Agreement, fully paid up, then notwithstanding anything to the contrary in any other law and notwithstanding that such treasury bills or bonds are not issued to the public, the Central Bank of Lesotho shall have power to purchase, repurchase or sell such treasury bill or bond from or on behalf of Lesotho Bank (1999) Limited and no such treasury bill or bond shall be disposed of, discounted or sold, pledged or dealt with in any way, by Lesotho Bank (1999) Limited other than to, or through, the Central Bank of Lesotho.

NOTE

1. Order No. 8 of 1971 as amended
2. Act No. 6 of 1999
3. Act No. 17 of 1979
4. Act No. 12 of 1967

**LESOTHO BANK (1999) LIMITED
VESTING) BILL 2000**

MEMORANDUM OF OBJECTS AND REASONS

The structure of Lesotho Bank, as established by the Lesotho National Development and Savings Bank Order 1971, took a different turn in terms of shareholding on 2nd August 1999. The purpose of the Lesotho Bank (1999) Limited (Vesting) Bill 2000 is to provide for and effect the transfer and vesting of certain assets and liabilities of Lesotho Bank (established by the 1971 Order) to the Lesotho Bank (1999) Limited. The Bill also provides for the holding of shares in Lesotho Bank (1999) by persons who are not citizens of Lesotho.