

1989

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
THE SENATE

BANKING LEGISLATION AMENDMENT BILL 1989  
EXPLANATORY MEMORANDUM

(Circulated by the Authority of  
the Minister representing the Treasurer,  
Senator the Hon Peter Walsh)

THIS MEMORANDUM TAKES ACCOUNT OF AMENDMENTS  
MADE BY THE HOUSE OF REPRESENTATIVES TO  
THE BILL AS INTRODUCED

BANKING LEGISLATION AMENDMENT BILL 1989  
GENERAL OUTLINE AND MAIN PURPOSES OF THE BILL

The purpose of the Banking Legislation Amendment Bill 1989 is to implement a number of revisions to the Banking Act 1959. Some ancillary changes to a number of other Acts are proposed to make them consistent with the amended Banking Act 1959. Some amendments to the Commonwealth Banks Act 1959 and the Reserve Bank Act 1959 are also proposed.

The main provisions of this Bill will:

- . remove all references in the Act to 'trading banks' and 'savings banks' and replace them with general references to 'banks', to facilitate the removal of the distinction between such banks as announced by the Treasurer in the 1988-89 Budget;
- . remove Division 3 of the Act concerning Statutory Reserve Deposits and replace it with a new Division 3 concerning Non-Callable Deposits, to facilitate the phasing down and replacement of Statutory Reserve Deposits as was also announced by the Treasurer in the 1988-89 Budget;
- . provide specific powers for the establishment of prudential requirements concerning the manner in which banks conduct their business and for the administration of such requirements by the Reserve Bank;
- . provide the Reserve Bank with powers of investigation into the books, accounts and transactions of banks including the ability to obtain information from a bank concerning individual customers where required for prudential purposes;
- . provide the Governor-General with the power to revoke a bank's authority to conduct banking business where a bank requests it and where he is satisfied that it would be appropriate;

- . repeal and replace Part VI of the Act relating to the statistical returns which banks are required to prepare and deliver;
- . update the penalty provisions throughout the Act;
- . amend Section 66 concerning the use of the word 'bank';
- . provide specific power to control the establishment of representative offices of international banks in Australia;
- . update the First Schedule which lists the banks authorised in accordance with the Banking Act; and
- . make amendments to a number of other Acts either of a technical nature or to remove references to savings and trading banks.

#### FINANCIAL IMPACT STATEMENT

The abolition of the Statutory Reserve Deposit requirement and its replacement with a Non-Callable Deposit requirement will involve costs to revenue and is therefore being implemented over a three year transitional period. It is anticipated that after the transitional period the revenue to the Reserve Bank from the NCD requirement will be of the order of half of that which might have been received from the SRD requirement. Prior to the commencement of the transitional period in September 1988 revenue from the SRD requirement via the Reserve Bank was approximately \$200 million annually. The cost to revenue for 1989-90 is estimated to be approximately \$20 million. The cost in 1990-91 will be dependent upon a number of variable factors such as the level of interest rates and the rate at which banks' balance sheets expand.

The extension of the "unclaimed moneys" provision in section 69 of the Banking Act to cover savings as well as trading banks is expected to result in a modest addition to revenue which could be of the order of \$5 to \$8 million a year, beginning in 1989-90.

## NOTES ON CLAUSES OF THE BILL

### PART I - PRELIMINARY

#### CLAUSE 1 - SHORT TITLE

Self explanatory

#### CLAUSE 2 - COMMENCEMENT

Self explanatory

### PART II - AMENDMENT OF THE BANKING ACT 1959

#### CLAUSE 3 - PRINCIPAL ACT

Self explanatory

#### CLAUSE 4 - INTERPRETATION

This clause amends the definitions contained in Section 5 of the Banking Act 1959.

- . The definitions of 'savings bank' and 'trading bank' are deleted from sub-section (1) to reflect the removal of the distinction between savings and trading banks as foreshadowed by the Treasurer in the 1988-89 Budget.
- . A definition of 'prudential matters' is inserted into sub-section (1) in view of subsequent clauses (clauses 6 and 22 in particular) which introduce specific authority for the prudential supervision of banks into the Act.
- . Sub-section (2) is amended by the omission of paragraph (b) which referred to Statistical Forms in the Second Schedule. The Second Schedule is to be deleted from the Act since the Statistical Forms to be completed by banks will be established by regulations (see clause 15).

## CLAUSE 5 - AUTHORITY TO CARRY ON BANKING BUSINESS

Sub-clause (1)(a) amends sub-sections 9(4) and 9(5) of the Act in two ways. First, the new sub-section 4 will increase the scope for the Governor-General to place conditions on banking authorities by allowing him to impose, vary or revoke conditions on authorities at any time. The existing sub-sections provide for conditions to be varied, revoked or supplemented by additional conditions only when an authority was granted subject to conditions.

Second, the new sub-section 5 provides for the avoidance of any ambiguity in the event a condition imposed on an authority should appear to conflict with regulations which may be made in relation to prudential matters in accordance with the new section 11A proposed in clause 6 of the Bill.

Sub-clause (1)(b) varies sub-section (7) by the removal of references to Part I (trading banks) and Part II (savings banks) of the First Schedule to the Banking Act consistent with the removal of the distinction between trading banks and savings banks.

Sub-clause (1)(c) inserts a new sub-section 8A which allows the Governor-General to revoke a banking authority where a bank requests it, the interests of the depositors of the bank would not be prejudiced, and that there is no other objection on grounds of national interest. Previously a banking authority could only be removed where a bank has ceased to carry on banking business. The addition of the new provision is intended to allow greater flexibility in the event that, for example, a financial institution should wish to continue its business without bank status but avoid the onerous process of transferring assets and liabilities to a new company.

Sub-clause 1(d) adds sub-section 9A, which allows the First Schedule of the Act to be kept up to date by the Treasurer indicating through the Gazette that he is satisfied that an authorised bank has ceased to exist or has changed its name. This procedure for amending the First Schedule is intended to make more readily available to the public up-to-date information as to which financial institutions are authorised banks.

Sub-clause (e) is consequent upon the adoption of the new sub-section 9(4).

Sub-clause (5)(2) ensures the continuity of the conditions on existing banking authorities notwithstanding the omission of sub-section 9(4). Existing conditions are to have the same effect as if they had been imposed under the new sub-section 9(4).

#### CLAUSE 6 - PRUDENTIAL SUPERVISION AND MONITORING OF BANKS

This clause adds a new element to the Banking Act 1959 to provide directly authority for the establishment and enforcement of prudential requirements to be observed by banks.

Although there are several legislative provisions, in both the Banking Act and the Reserve Bank Act, which require the Reserve Bank to have regard to the protection of depositors and the stability of the financial system, the Banking Act does not give the Reserve Bank specific powers to establish or enforce prudential requirements as to the manner in which banks conduct their business. Existing arrangements for prudential supervision rely principally on consultation and cooperation, although since 1985 these arrangements have had the added force of conditional clauses which have been included in all new banking authorities granted since then.

The provision in new section 11A for prudential requirements to be established by regulations should be read together with the additions to section 71 of the Banking Act proposed in clause 22.

New section 11B which establishes some functions for the Reserve Bank in relation to prudential matters should also be read together with clause 22 and, in particular, new sub-section 71(2) which provides for additional functions to be conferred on the Reserve Bank by regulations.

New Section 11C is self-explanatory.

#### CLAUSE 7 - SUPPLY OF INFORMATION

The amendment is self explanatory.

#### CLAUSE 8 - BANKS UNABLE TO MEET OBLIGATIONS

Clause 8 amends section 14 by removing reference to the Auditor-General in sub-section 2(c) and by replacing references to 'an officer of the Reserve Bank' with a 'person' in sub-sections 2(d) and (3). These changes are consequent upon the amendments to section 61 of the Banking Act proposed in clause 16 of the Bill.

#### CLAUSE 9 - INDEMNITY

Similarly, clause 9 amends section 15 of the Banking Act.

#### CLAUSE 10 - ASSETS OF BANKS

Sub-section 16(3) is omitted since it is no longer considered appropriate to distinguish between the banks described in this section and other banks.

**CLAUSE 11 - NON-CALLABLE DEPOSITS**

This clause repeals Division 3 of the Banking Act relating to Statutory Reserve Deposits and replaces it with a new Division 3 titled Non-Callable Deposits (NCD). The purpose of the new Division is to give effect to the announcement in the 1988-89 Budget that the Statutory Reserve Deposit requirement would be wound down and reformed with a view to removing distortions in the allocation of financial resources.

New section 17 is self explanatory.

New section 18 provides scope for the Reserve Bank, with the approval of the Treasurer, to define which assets or liabilities of banks are to be taken into account for the purposes of the Non-Callable Deposit ratio and, if necessary, to vary this definition in the light of developments in the financial sector.

New section 19 is similar to the existing section 18 and provides that the level of a bank's eligible assets or eligible liabilities on the third Wednesday of each month may be measured as the average of the bank's eligible assets or eligible liabilities at the close of business on each Wednesday in the preceding month.

New section 20 provides for the Reserve Bank, with the approval of the Treasurer, to determine the amount of their eligible assets or eligible liabilities which banks may be required to hold in Non-Callable Deposits, within a ceiling of one per cent of eligible assets or eligible liabilities. The requirement is similar in concept to that in section 20 of the Act. New Sub-section 20(3) provides for the requirement to apply to all banks in keeping with the proposal to remove the distinction between trading banks and savings banks.



New section 21 is similar to the existing section 19 and is self explanatory.

New section 22(1) imposes on banks the obligation to maintain Non-Callable Deposits with the Reserve Bank and is similar to the existing section 20.

New subsection 22(2) is similar to the existing section 27 and is intended to simplify the operation of Non-Callable Deposit Accounts.

The arrangements for penalties outlined in new section 23 are based on the existing section 26 concerning failure to maintain Statutory Reserve Deposits.

New section 24 is based on the existing section 29 of the Act.

Similarly, new section 25 is based on the existing section 28.

#### CLAUSE 12 - ADVANCE POLICY

The purpose of this clause is to remove all references to trading banks and savings banks and replace them with general references to banks.

#### CLAUSE 13 - REPEAL OF DIVISION 6 OF PART II

Since the intention of the Bill is, inter alia, to remove the distinction between trading banks and savings banks it is no longer appropriate to retain special legislative provisions in relation to savings banks. Accordingly, clause 13 repeals Division 6 of the Act.

#### CLAUSE 14 - CONTROL OF INTEREST RATES

For the same reason, this clause amends section 50 of the Act to refer to banks generally.

#### CLAUSE 15 - STATISTICS

This clause repeals Part VI of the Act which deals with the collection and publication of statistical information about banks and replaces it with a new part VI.

The major change to Part VI is to provide for detailed arrangements for the collection and publication of statistics about banks to be determined through regulations rather than be spelled out in the Act. This will enable the forms used by banks to report information to be altered more readily in the light of developments in financial instruments and practices than has previously been the case. In particular, increased flexibility will be gained from the repeal of section 56 which required that the Act be amended before any change could be made to the essential nature of the forms.

The amended Act will no longer require banks to provide information to the Commonwealth Statistician or require him to publish data derived from such information in the Gazette. This will allow resource savings for the Australian Bureau of Statistics, avoid duplication of effort between the Bureau and the Reserve Bank which also receives information from banks and publishes data derived from it. Statistical information provided by banks (other than solely prudential information) will continue to be available to the Treasury in view of its usefulness for economic policy purposes.

New subsection 51(1)(d) carries over to the new Part VI the provision previously contained in section 60.

New subsection 51(2) and 51(3) have been included to ensure the privacy of individual customers of banks.

Subsection 51(2) provides that information may only be required with respect to the affairs of an individual customer if it relates to the prudential standing of the bank concerned. Subsection 51(3) ensures that information relating to the affairs of an individual customer shall not be published.

New section 52 has been included since banks will in future only be required to submit information to one authority, the Reserve Bank rather than a number of authorities, including the Treasury, as is now required under the Act. The new section provides for the Treasury to continue to have access to information obtained by the Reserve Bank under the regulations made pursuant to Part VI where this information is relevant to the Treasury's responsibilities in relation to economic policy matters.

#### CLAUSE 16 - POWER OF RESERVE BANK TO CONDUCT INVESTIGATIONS

This clause repeals section 61 of the Act which requires the Auditor-General to investigate the affairs of each bank periodically, and replaces it with a new section 61 to provide for a power for the Reserve Bank to arrange for an investigation of prudential matters relating to a bank to be undertaken if it considers this necessary.

It is no longer considered appropriate by either the Government or the Auditor-General that the latter should be involved in the investigation of private banks, given that his essential role is in relation to the investigation of, and reporting on, Commonwealth Departments and instrumentalities. The role assigned to the Auditor-General in section 61 dates from the times when what is now the Reserve Bank was part of the Commonwealth Bank and it was

considered inappropriate for one commercial bank, despite its central banking function, to have the power to investigate other banks. It is now appropriate that the power of investigation of banks' affairs should be vested in the Reserve Bank in keeping with its responsibility for the prudential supervision of banks.

#### CLAUSE 17 - SUPPLY OF INFORMATION

Clause 17 qualifies the existing subsection 62(2) which prevents the Bank from making any enquiry about an individual customer of a bank even when such knowledge may be essential to a satisfactory understanding of the prudential standing of the bank concerned. Clause 17(a) proposes that information about an individual customer may be sought from a bank if such information is required for prudential purposes.

Clause 17(b) allows the Treasury to obtain information provided to the Reserve Bank which is of relevance to the Treasury's economic policy interests.

#### CLAUSE 18 - SETTLEMENT OF BALANCES BETWEEN BANKS

This clause amends section 64 of the Act by removing the reference to a 'trading bank' and altering it to a 'bank' in accordance with the intention of the Bill to remove the distinction between trading banks and savings banks.

#### CLAUSE 19 - (A) RESTRICTION OF USE OF THE WORD 'BANK' AND 'SAVINGS BANK'

This clause repeals section 66 and 67 of the Act and replaces them with a more comprehensive provision. The essential purpose of the section will remain the avoidance of confusion regarding the status of banks authorised under the Banking Act and other financial institutions.

Sub-section 66(2) will allow the Treasurer a greater degree of flexibility in the administration of the section by allowing him to give conditional approval, vary conditions or revoke a consent.

The revisions to section 66 are intended to place beyond doubt that the section applies to compound expressions (such as 'merchant bank', 'investment bank' and 'mortgage bank') which include the word 'bank', 'banker' or 'banking' or any word of like import, where those expressions refer to institutions conducting financial business even if of a restricted, qualified and special kind. Section 66 will, however, continue not to apply to expressions which include the word 'bank' but clearly denote something other than a financial institution.

#### CLAUSE 19 - (B) RESTRICTION ON ESTABLISHMENT OR MAINTENANCE OF LIAISON OFFICES OF OVERSEAS BANKS

This is a new section which is intended to establish a clear legal foundation for control to be exercised over the establishment of representative offices by international banks which are not authorised under the Banking Act to conduct banking business in Australia. Under the new section 67 such banks will be required to seek the Treasurer's consent to open a representative office and to observe any conditions which may be attached to his consent. The new provision will give effect to arrangements which already operate on an informal basis.

#### CLAUSE 20 - UNCLAIMED MONEYS

The amendment will extend the provision on unclaimed moneys to savings as well as trading banks. The threshold of \$20 mentioned in the existing sub-section 69(9) will be adjusted

(according to the approximate increase in the consumer price index since 1959) to \$100 and will apply both to the annual publication of details of accounts transferred to the Commonwealth and the amount transferred, that is, banks will retain unclaimed moneys in accounts with less than \$100 until such time as they may be claimed by the relevant owners.

Unclaimed moneys will be credited to Consolidated Revenue, and the intermediate stage of holding them for six years in the Trust Fund kept under section 60 of the the Audit Act 1901-1959 will be eliminated. This change will reduce administrative requirements but the money transferred will continue indefinitely to be available to be recovered by legitimate claimants. The claim procedure would remain unchanged. The revised provision will over-ride State legislation on unclaimed moneys. The revised provision will relate to all unclaimed moneys held by banks on 31 December following the date of commencement of the section and moneys which become "unclaimed" each year thereafter.

#### CLAUSE 21 - DELEGATION BY TREASURER

This is a new section which is intended to facilitate the administration of the Act by allowing the Treasurer to delegate the exercise of powers under the new sections 66 and 67 of the Act to his Department or to the Reserve Bank where this would be appropriate.

#### CLAUSE 22 - REGULATIONS

Clause 22 (which should be read together with clause 6) extends Section 71 of the Act by adding two provisions relating to the process of formulating regulations in relation to prudential matters. Such regulations are to be made in accordance with the recommendations of the Treasurer

who will be required to consult the Reserve Bank before making his recommendation. The new section 71(2) establishes that regulations may confer functions on the Reserve Bank in relation to prudential matters.

#### CLAUSE 23 - FIRST SCHEDULE

This clause updates the First Schedule to the Act, which lists the banks authorised under the Banking Act, and omits the distinction made in the Schedule between trading banks and savings banks.

#### CLAUSE 24 - REPEAL OF SECOND SCHEDULE

The Second Schedule to the Act which displayed the statutory forms referred to in the former Part VI concerning Statistics is no longer required given the proposal in Clause 14 to provide for the details of arrangements for the collection of statistics from banks to be dealt with in regulations.

#### CLAUSE 25 - AMENDMENTS RELATING TO OFFENCES

Schedule 2 to the Bill sets out amendments of the Banking Act in relation to offences. New section 69A varies penalties relating to offences to make them consistent with those in other relevant Commonwealth legislation. Section 69B provides that an indictable offence may be dealt with summarily in which case the maximum penalties available would be less than those available to be applied if a conviction were obtained by trial.

New section 69C(1) is an evidentiary provision which imputes to a body corporate the state of mind of its directors, servants or agents, in circumstances where it is necessary to establish the body corporate's state of mind for the purposes of the Act.

New sub-section (2) deems conduct engaged in on behalf of a body corporate by a director, servant or agent acting within the scope of his or her actual or apparent authority to also have been engaged in by the body corporate.

Sub-sections (3) and (4) are similar evidentiary provision in relation to persons other than bodies corporate.

Sub-section (5) ensures that a natural person convicted of an offence on the basis of the conduct or intention of another person imputed to that person pursuant to sub-sections (3) or (4) is not sentenced to a term of imprisonment.

Sub-section (6) provides that the 'state of mind' of a person refers to the knowledge, intention, opinion, belief or purpose of the person and that person's reasons for those states of mind.

Sub-section (7) removes any doubt that a reference to a director of a body corporate includes a reference to a constituent member of a body corporate incorporated by legislation.

Sub-section (8) is self explanatory.

The amended section 70 includes a new subsection (5) which extends the penalty provisions of the Act such that an offence against sections 6, 7, 7a or 86(1) of the Crimes Act 1914 in relation to a provision or regulation of the Banking Act shall be treated as an offence against the Banking Act.

The amendment to section 71 will increase the penalties for offences against regulations made under the Banking Act to bring the Act into line with other Commonwealth legislation.



# CLAUSE 26 - FORMAL AMENDMENTS

Schedule 3 makes a number of formal amendments including the substitution of figures for words and the removal of sexist language.

# CLAUSE 27 - TRANSITIONAL - NON-CALLABLE DEPOSIT RATIOS

In accordance with the Government's policy that Statutory Reserve Deposits should be wound down gradually, Clause 27 provides for a transitional period ending on 30 September 1991. During this transitional period the Reserve Bank will be able to set different Non-Callable Deposit ratios for particular banks. This is because there will be some banks, such as the former savings banks who were not associated with a trading bank, whose NCD obligations will be phased up to one per cent of eligible liabilities during the transitional period while other banking groups, which have previously met Statutory Reserve Deposit obligations through their trading bank arms, may have deposits in excess of that level for much of the transitional period. Accordingly, Clause 27 also provides that the Reserve Bank may set ratios higher than one per cent provided that, if a ratio higher than one per cent is set for a particular bank, the required balance should be no greater than the Statutory Reserve Deposit of that bank on 26 September 1988, the date on which the phasing in of the changed arrangements commenced on an informal basis.

# CLAUSE 28 - TRANSITIONAL - ABOLITION OF DISTINCTION BETWEEN TRADING AND SAVINGS BANKS

This clause is related to Part V (clause 51) of the Bill concerning the consequential amendment of other Acts. It provides that, where an Act which refers to "trading bank" or

"savings bank" is not amended by Part V, such references should be read as references to a bank generally.

### PART III - AMENDMENT OF THE COMMONWEALTH BANKS ACT 1959

#### CLAUSE 29 - PRINCIPAL ACT

Self-Explanatory.

#### CLAUSES 30 AND 31 - CAPITAL

Clause 30 broadens the definition of the capital of the Commonwealth Bank set out in section 30 of the Principal Act to include amounts arising from the application of section 30A. Section 30A is a new section introduced into the Principal Act by Clause 31, to empower the Board to transfer amounts from the reserves of the Commonwealth Bank to the capital of the Bank.

#### CLAUSES 32 AND 33 - COMMONWEALTH BANK RESERVE FUND

Clause 32 replaces the references to section 32 in section 31 of the Principal Act by a reference to a new section, section 33. The existing references to section 32 are inappropriate as a result of amendments to that section by the Commonwealth Banks Amendment Act 1987.

The new section, section 33, is inserted into the Principal Act by Clause 33. It empowers the Board to transfer to the Commonwealth Bank Reserve Fund any part of the profit of the Commonwealth Bank remaining after the payment (under section 32) of the annual dividend to the Commonwealth.

CLAUSE 34 - GENERAL FUNCTIONS OF SAVINGS BANKS

This clause makes amendments to section 41 of the Principal Act consequential on the removal of the distinction between savings banks and trading banks.

CLAUSE 35 - SHARE CAPITAL

Section 42A of the Principal Act defines the share capital of the Commonwealth Savings Bank. Sub-clause 35(a) inserts a new sub-section, sub-section (8A), into this section to empower the Board to expand the issued share capital of the Savings Bank by drawing on funds in the reserves of the Savings Bank to pay up in full newly issued shares. By amending sub-section 42A(9), sub-clause 35(b) makes it clear that the new shares issued in this way by the Savings Bank become the property of the Commonwealth Bank.

(Sub-section 42A(11) of the Principal Act precludes any person other than the Commonwealth Bank from holding shares in the Savings Bank.)

CLAUSE 36 - AMALGAMATION OF OTHER BANKS WITH COMMONWEALTH SAVINGS BANK

This clause makes amendments to section 50 of the Principal Act consequential on the removal of the distinction between trading and savings banks.

CLAUSE 37 - UNCLAIMED MONEYS OF THE SAVINGS BANK

Section 53 of the Principal Act outlines procedures to be followed by the Commonwealth Savings Bank in dealing with money from accounts which have been dormant for over seven years. The repeal of section 53 by clause 37 means that, apart from certain transitional arrangements (see clause 43),

the CSB will be subject to the same requirements regarding unclaimed moneys as are to apply to all banks subject to the Banking Act 1959 (see clause 20).

#### CLAUSES 38, 39 AND 40 - COMMONWEALTH DEVELOPMENT BANK RESERVE FUND

The Commonwealth Banks Amendment Act 1987 inserted a new section, section 77A, into the Principal Act, to provide for the payment of a dividend to the Commonwealth from the profits of the Development Bank. This conflicts with section 77 of the Principal Act, which requires that all the net profits of the Development Bank be placed in the Commonwealth Development Bank Reserve Fund. A further consequence is that the reference to section 77 in section 76 of the Principal Act is no longer appropriate to the proper functioning of the latter.

Accordingly, clause 38 omits from section 76 of the Principal Act the reference to section 77 and substitutes a reference to a new section, section 78. Section 77 of the Principal Act is repealed by clause 39.

Clause 40 inserts the new section, section 78, into the Principal Act, to enable the Board to transfer to the Commonwealth Development Bank Reserve Fund any part of the profit of the Commonwealth Development Bank remaining after the payment (under section 77A) of the dividend to the Commonwealth.

#### CLAUSE 41 - AGENTS, ETC

This clause makes an amendment to section 83 of the Principal Act consequential on the removal of the distinction between savings and trading banks.

CLAUSE 42 - ANNUAL REPORTS AND FINANCIAL STATEMENTS

The purpose of sub-clause 42(1) (a) is to allow the specification in the regulations to the Principal Act of the reporting requirements for the Commonwealth Bank to be broadened, for example by permitting reference to the reporting requirements of the Companies Act 1981.

Section 49A of the Acts Interpretation Act 1901 provides that such references may be made provided no contrary intention appears in the Principal Act. Sub-clause 42(1) (b) is designed to prevent the reference to the Companies Act 1981 in section 121A of the Principal Act from limiting the power to prescribe requirements in the regulations.

CLAUSE 43 - TRANSITIONAL - DEPOSITOR'S UNCLAIMED FUND

Section 53 of the Principal Act establishes the Depositors' Unclaimed Fund within the Commonwealth Savings Bank into which unclaimed moneys of the Savings Bank must be paid. After 10 years, moneys in the Depositor's Unclaimed Fund become the absolute property of the Savings Bank.

Clause 43 specifies transitional arrangements relating to these unclaimed moneys, associated with bringing the Savings Bank as far as possible into conformity with the other banks.

Sub-clause 43(1) provides that, notwithstanding its repeal, section 53 of the Principal Act will continue to apply to moneys remaining in the Depositors' Unclaimed Fund or to moneys that have become the absolute property of the Savings Bank.

Sub-clause (2) makes it clear that the Savings Bank, like all other savings banks, will not be required to transfer to the

Commonwealth unclaimed moneys which have been unclaimed for eight years or more on 31 December following the date of commencement of the provision.

#### PART IV - AMENDMENT OF THE RESERVE BANK ACT 1959

##### CLAUSE 44 - PRINCIPAL ACT

Self-explanatory.

##### CLAUSE 45 - PROFITS

Section 30 of the Principal Act deals with the distribution of Reserve Bank profits arising from its central banking activities. Consistent with the merging of the accounts relating to central banking and note issue, clause 45 removes the words from section 30 which restrict its applicability purely to central banking profits.

##### CLAUSE 46 - REPEAL OF SECTION 33

Section 33 of the Principal Act establishes a separate Note Issue Department within the Reserve Bank for which separate accounts are required to be maintained. This section is repealed by clause 45.

##### CLAUSE 47 - ISSUE, RE-ISSUE AND CANCELLATION OF NOTES

Sub-section 34(1) of the Principal Act empowers the Reserve Bank, through the Note Issue Department, to issue, re-issue and cancel Australian currency notes. Clause 47 omits the requirement in this sub-section that these functions must be undertaken through the Note Issue Department.

CLAUSE 48 - REPEAL OF SECTIONS 38 TO 42 (INCLUSIVE)

This clause effects the repeal of sections 38 to 42 (inclusive) of the Principal Act.

Section 38 requires that the funds of the Note Issue Department, in so far as they are not held by the Reserve Bank or invested in land, plant, equipment, stores and the like, shall be invested in gold, Commonwealth or State Government securities or securities of the Government of the United Kingdom, or be held on deposit with a bank. All financial assets of the Note Issue Department are currently held by the Reserve Bank.

Section 39 requires the maintenance of a special reserve account for the purposes of the Note Issue Department and for the purpose of preserving the external value of the Australian currency. The funds in this special reserve account were exhausted in 1967. There is no mechanism in the Act which permits the account to be replenished.

Section 40 specifies that the net profits of the Note Issue Department shall be paid to the Commonwealth. The repeal of this section will allow earnings from the note issue function to be dealt with along with the Reserve Bank's earnings from its Central Banking activities. Under section 30 of the Principal Act (as amended by clause 45), Reserve Bank profits must be placed to the credit of the Reserve Bank Reserve Fund or paid to the Commonwealth as the Treasurer determines.

Section 41 requires the Reserve Bank to prepare each month a statement of the number and amount of Australian notes on issue for publication in the Gazette. Information on Australian notes is available from other sources including the Reserve Bank Annual Reports.

Section 42 requires each bank to furnish the Reserve Bank each week with information on its holdings of Australian notes. This information is now available to the Reserve Bank through other mechanisms.

#### CLAUSE 49 - DETERMINATION OF NET PROFITS

Section 78 of the Principal Act specifies that, in determining the net profits of the Reserve Bank or the Note Issue Department the Treasurer's approval is required for any amounts written off bank premises or provided for contingencies. Clause 49 amends section 78 by deleting the reference to the Note Issue Department.

#### CLAUSE 50 - TRANSITIONAL NET PROFITS OF THE NOTE ISSUE DEPARTMENT

This clause specifies that the new arrangements for dealing with net profits of the Reserve Bank under the amended section 30 of the Principal Act shall apply to the whole of the net profits arising from note issue in the year in which the amendments come into effect.

#### PART V - AMENDMENT OF OTHER ACTS IN CONNECTION WITH THE ABOLITION OF THE DISTINCTION BETWEEN SAVINGS AND TRADING BANKS

Schedule 4 of the Bill, established by Clause 51, names a number of Acts which must be amended as a consequence of the removal of the distinction between trading and savings banks, mainly by the omission of references to savings and trading banks.