

ARTHUR ROBINSON & NEEDERWICKS
1995 B7/117

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

COMMONWEALTH BANK SALE BILL 1995

EXPLANATORY MEMORANDUM

(Circulated by authority of the Treasurer, the Hon Ralph Willis, MP)

COMMONWEALTH BANK SALE BILL 1995

TABLE OF CONTENTS

GENERAL OUTLINE

FINANCIAL IMPACT STATEMENT

NOTES ON CLAUSES

PART 1 - PRELIMINARY

- Clause 1 - Short Title
- Clause 2 - Commencement
- Clause 3 - Interpretation

PART 2 - AMENDMENTS

- Clause 4 - Schedule

Part 3 - TRANSITIONAL AND SAVINGS

Division 1 - Transitional and savings provisions relating to the *Safety, Rehabilitation and Compensation Act 1988*

- Clause 5 - Interpretation
- Clause 6 - *SRC Act* continues to apply to Commonwealth Bank etc. for certain purposes
- Clause 7 - *SRC Act* continues to apply for previous injuries etc.
- Clause 8 - Payment of premiums
- Clause 9 - Transitional provision relating to Part VIIIA of the *SRC Act*
- Clause 10 - Refund of licence fee
- Clause 11 - Amendment of declarations
- Clause 12 - Section 128A of the *SRC Act*
- Clause 13 - Notification of amount of salary etc

Division 2 - Transitional and savings provisions relating to the *Defence Force Retirement and Death Benefits Act 1973*

- Clause 14 - Interpretation
- Clause 15 - Deferred benefits
- Clause 16 - Periods of eligible employment

Division 3 - Miscellaneous

- Clause 17 - Saving previous operation of section 109 of the *Commonwealth Banks Act 1959*
- Clause 18 - Application of section 63A of the *Income Tax Assessment Act 1936*
- Clause 19 - Regulations

PART 4 - EXEMPTION FROM CERTAIN TAXES

- Clause 20 - Exemption from certain State and Territory taxes

NOTES ON ITEMS

AMENDMENT OF ACTS

- Item 1 - Schedule 1 of the *Administrative Decisions (Judicial Review) Act 1977*
- Item 2 - Section 3 of the *Australian Bicentennial Authority Act 1980*

Banking Act 1959

- Item 3-5 - Section 5
- Item 6 - Subsection 5(2)

Banks (Shareholdings) Act 1972

- Item 7-9 - Subsection 6(1)
- Item 10 - Subsection 10(1AA)
- Item 11 - Subsection 10(11)
- Item 12 - Subsection 10(11A)
- Item 13 - Section 10A
- Item 14 - Subsection 12(1)
- Item 15 - Subsection 13(1)

Commonwealth Banks Act 1959

- Item 16-18 - Section 4
- Item 19 - Part II
- Item 20 - Section 27H and Commonwealth Bank is not a Commonwealth authority or Commonwealth company etc.
- Item 21 - Division 3 of Part IV
- Item 22 - Subsection 28(1A)
- Item 23 - Section 28
- Item 24 - Section 32
- Item 25 - Sections 71, 72, 73 and 74
- Item 26 - After subsection 74(1)
- Item 27 - Section 74A and Preliminary steps to conversion of Development Bank into a company

- Item 28 - After section 74A - Conversion of Development Bank into a company and Development Bank is not a Commonwealth authority or Commonwealth company etc
- Item 29 - Sections 76 to 108
- Item 30 - Heading to Part VIII
- Item 31 - After section 108 - Preliminary steps to conversion of Corporation into a company
- Item 32 - After section 108A - Conversion of Corporation into a company and Corporation is not a Commonwealth authority or Commonwealth company etc
- Item 33 - Section 109
- Item 34 - Section 110 - Superannuation fund
- Item 35 - Section 114
- Item 36 - Section 116
- Item 37 - Section 117 - Guarantee by the Commonwealth
- Item 38 - Sections 118 to 127
- Item 39-40 - Subsections 128(1)
- Item 41 - Subsection 128(2)
- Item 42 - Subsection 128(2A)
- Item 43-44 - Subsection 128(3)
- Item 45-47 - Subsection 128(6)
- Item 48 - Section 128
- Item 49 - Section 129

- Item 50 - Subsection 28(1) of the *Crimes (Currency) Act 1981*
- Item 51 - Subsection 57(1) of the *Defence (Re-establishment) Act 1965*
- Item 52 - Part 1 of Schedule 2 of the *Freedom of Information Act 1982*
- Item 53 - Schedule 2 of the *National Crime Authority Act 1984*
- Item 54 - Section 3 of the *Northern Territory (Lessees' Loans Guarantee) Act 1954*
- Item 55 - Schedule of the *Occupational Health and Safety (Commonwealth Employment) Act 1991*
- Item 56 - Section 10 of the *Papua New Guinea (Transfer of Banking Business) Act 1973*

- Reserve Bank Act 1959*

- Item 57 - Section 5
- Item 58 - Subsection 17(2)

- Item 59 - Section 10 of the *Superannuation Industry (Supervision) Act 1993*

COMMONWEALTH BANK SALE BILL 1995

GENERAL OUTLINE

The *Commonwealth Bank Sale Bill 1995* puts in place the necessary legislative framework for the sale of the Commonwealth Government's remaining 50.39 per cent shareholding in the Commonwealth Bank and for the conversion of the Commonwealth Development Bank and the Commonwealth Bank Officers Superannuation Corporation into companies under the Corporations Law.

The main purposes of the Bill are:

- to ensure that, post sale, Commonwealth Bank bodies, which include the Commonwealth Bank, the Commonwealth Development Bank of Australia, the Commonwealth Bank Officers Superannuation Corporation and other subsidiaries of the Commonwealth Bank, are, as far as practicable, subject to legislation consistent with other private sector companies and approved banks under the *Banking Act 1959* and the Corporations Law;
- to provide for the conversion of the Commonwealth Development Bank and the Commonwealth Bank Officers Superannuation Corporation from statutory authorities to Corporations Law companies and to convert the statutory superannuation fund of the Commonwealth Bank Officers Superannuation Corporation to a trust;
- to provide transitional arrangements for the Commonwealth guarantee of the liabilities of the Commonwealth Bank and the Commonwealth Bank Officers Superannuation Corporation;
- to provide an on going Commonwealth guarantee of the liabilities of the Commonwealth Development Bank;
- to ensure that the Commonwealth Bank body is not disadvantaged under section 63A of the *Income Tax Assessment Act 1936* as a result of the change in ownership resulting from the sale of the Commonwealth's shares in the Commonwealth Bank;
- to provide the Commonwealth Bank and the Commonwealth Development Bank with transitional arrangements regarding protected business names;
- to ensure that, despite the change of ownership from the Commonwealth, employee entitlements already accrued under the *Safety, Rehabilitation and Compensation Act 1988* and the *Defence Force Retirement and Death Benefits Act 1973* in respect of service prior to the sale, are retained after the sale; and
- to provide for the necessary consequential amendments to other Commonwealth legislation.

The Bill does not define the future role of the Commonwealth Development Bank. The Commonwealth Development Bank's existing Charter as defined in the *Commonwealth Banks Act 1959* will be repealed and replaced in the Memorandum of the Commonwealth Development Bank.

The Commonwealth will continue to pay an annual subsidy to the Commonwealth Development Bank to undertake the banking activities defined in its Charter. The *Commonwealth Bank Sale Bill 1995* does not define the annual subsidy arrangements for the Commonwealth Development Bank. These arrangements will be defined in a shareholders' agreement (the Agreement) to be entered into between the Commonwealth and the Commonwealth Bank before the transfer time, ie the time at which the Commonwealth ceases to have the status of being the holder of more than 50 per cent of the shares in the Commonwealth Bank.

FINANCIAL IMPACT STATEMENT

The prime financial impact arising from the sale of the Commonwealth's remaining 50.39 per cent shareholding in the Commonwealth Bank will be the offset to outlays occurring when the sale receipts are credited to the Commonwealth Public Account. The Commonwealth's equity in the Commonwealth Bank, based on recent share prices, has a market value in the order of \$4.5 billion.

The *Commonwealth Bank Sale Bill 1995* contains provisions which have financial impacts in four main areas:

- the guarantee of the liabilities of the Commonwealth Bank and the Commonwealth Bank Officers Superannuation Corporation for a transitional period and the ongoing guarantee of the liabilities of the Commonwealth Development Bank;
- employee matters;
- exemption from the possible application of section 63A of the *Income Tax Assessment Act 1936* for the purposes of the Commonwealth's sale of its shareholding in the Commonwealth Bank; and
- exemption from certain State and Territory taxes, duties and charges.

GUARANTEE BY THE COMMONWEALTH (SCHEDULE)

Item 37 - Guarantees

In the event that the Commonwealth guarantees identified under item 37 are called upon, the Commonwealth will be liable for amounts payable under the guaranteed borrowings. The Notes on Clauses and Items (for item 37) describe in more detail the nature of the Commonwealth guarantee arrangements.

EMPLOYEE MATTERS IN RELATION TO THE SAFETY, REHABILITATION AND COMPENSATION ACT 1988 AND THE DEFENCE FORCE RETIREMENT AND DEATH BENEFITS ACT 1973

Division 1 - Transitional Provisions relating to the *Safety, Rehabilitation and Compensation Act 1988 (SRC Act)*

Under these provisions, Comcare will remain liable for *SRC Act* compensation claims arising from work-related injuries of Commonwealth Bank employees until the Commonwealth's shareholding in the Commonwealth Bank falls to below 50 per cent. The Commonwealth Bank has made premium payments to Comcare for that period.

If the Commonwealth Bank were to apply for a licence under Part VIIIA of the *SRC Act*, a licence fee would be payable. These licences are issued to Commonwealth authorities to accept liability for payment, and determination, of compensation claims. Clause 10 provides a refund of any fee paid for the portion of the financial year remaining after the transfer time. The total amount payable under these provisions will depend on when the transfer time occurs during a financial year.

Division 2 - *Defence Force Retirement and Death Benefits Act 1973*

These provisions enable certain employees of the Commonwealth Bank body who are ex-members of the Defence Forces to continue to qualify for deferred benefits under the *Defence Force Retirement and Death Benefits Act 1973*. The Commonwealth will continue to be liable to pay deferred benefits to these employees. Where the relevant minimum period of service in 'public employment' has not been completed prior to the transfer time, the savings provisions under Division 2 of the Bill provide for service with the Commonwealth Bank body, beyond the transfer time, to continue to be counted as public employment, for the purposes of this Act. The number of affected employees, while likely to be small, is not known precisely and therefore an estimate of the financial impact of these savings provisions cannot be made.

SECTION 63A OF THE *INCOME TAX ASSESSMENT ACT 1936*

Clause 18 - Application of section 63A of the *Income Tax Assessment Act 1936*

Clause 18 will deem that Section 63A of the *Income Tax Assessment Act 1936* will not apply to the disposal of the Commonwealth's shareholding in the Commonwealth Bank (refer to the Notes on Clauses for clause 18). The possible cost to revenue of clause 18 cannot be estimated.

STATE AND TERRITORY TAXES, DUTIES AND CHARGES

Clause 20 - Exemption from certain State and Territory taxes

Clause 20 exempts various transactions associated with the sale of the Commonwealth's 50.39 per cent shareholding in the Commonwealth Bank from most State and Territory taxes, levies, fees, duties and charges. Whilst this would have a positive effect on the sale price and therefore sale proceeds, the Commonwealth has indicated its in-principle support for providing relevant States and Territories with an ex-gratia payment compensating them for stamp duty foregone.

COMMONWEALTH BANK SALE BILL 1995

NOTES ON CLAUSES

PART 1 - PRELIMINARY

Clause 1 - Short Title

Commencement: [Royal Assent]

1. Clause 1 provides for the Act to be cited as the *Commonwealth Bank Sale Act 1995*.

Clause 2 - Commencement

Commencement: [Royal Assent]

2. Subclause 2(1) provides for certain clauses and items to commence on Royal Assent. These are:
 - formal clauses relating to definitions and interpretations (Part 1);
 - the exemption from certain State and Territory taxes and charges (Part 4);
 - the preliminary steps for the conversion of the Commonwealth Development Bank and the Commonwealth Bank Officers Superannuation Corporation into companies under the Corporations Law (item 27 and item 31 of the Schedule);
 - the ability of both the Commonwealth Bank and the Commonwealth Development Bank to be in possession of a banking authority under the *Banking Act 1959* to carry on banking business (items 23 and 26 of the Schedule); and
 - the repeal of existing restrictions regarding the issue or transfer of shares in the Commonwealth Bank (item 21 repealing Division 3 of Part IV of the *Commonwealth Banks Act 1959*).
3. Subclause 2(2) allows for the transitional and savings provisions (Part 3) and various items in the Schedule relating to the Commonwealth Bank, Commonwealth Development Bank and the Commonwealth Bank Officers Superannuation Corporation, to commence at the transfer time, ie the time at which the Commonwealth ceases to have the status of being the holder of more than 50 per cent of the shares in the Commonwealth Bank.
4. Subclause 2(3) allows for item 12 of the Schedule relating to amendments of the *Banks (Shareholdings) Act 1972* in regard to the Commonwealth's shareholding in the Commonwealth Bank after the transfer time to commence on a date to be fixed by Proclamation. The proclaimed date will be after the Commonwealth's shareholding in the Commonwealth Bank falls to below 10 per cent. The timing of this event cannot be predicted in advance.
5. Subclause 2(4) provides that item 22 of the Schedule relating to the Commonwealth Bank of Australia's authority to provide insurance services will commence on the first anniversary of the day on which the transfer time occurs.

6. Subclause 2(5) provides that item 37 of the Schedule relating to the Commonwealth guarantee of the liabilities of the Commonwealth Bank, the Commonwealth Development Bank and the Commonwealth Bank Officers Superannuation Corporation, will commence at the transfer time or at the beginning of 9 May 1996, whichever is later.

7. Subclause 2(6) provides that item 48 of the Schedule relating to the protected business names of the Commonwealth Bank of Australia and the Commonwealth Development Bank of Australia, will be repealed 10 years from the transfer time. Item 1 of the Schedule regarding the consequential amendments to the *Administrative Decisions (Judicial Review) Act 1977* will come into effect 10 years from the transfer time.

Clause 3 - Interpretation

Commencement: [Royal Assent]

8. Clause 3 provides definitions of terms used in the Bill, ie 'Bank body'; 'Commonwealth Bank' and the 'transfer time'.

PART 2 - AMENDMENTS

Clause 4 - Schedule

Commencement: [Royal Assent]

9. Clause 4 provides for amendments to various Commonwealth Acts as specified in the Schedule. These include the *Commonwealth Banks Act 1959*, the *Banking Act 1959* and the *Banks (Shareholdings) Act 1972*. The amendments are necessary to facilitate the sale and to place the Commonwealth Bank on the same footing as other authorised banks. Although the Schedule comes into effect at Royal Assent, all of the items in the Schedule, with the exception of items 1, 12, 16, 17, 21, 22, 23, 26, 27, 31, 37 and 48, come into effect at the transfer time.

PART 3 - TRANSITIONAL AND SAVINGS

Commencement: [Transfer Time]

10. Transitional and savings provisions continue or modify certain obligations of a Commonwealth Bank body. They also allow for the completion of matters commenced pre-sale and provide for the attribution of certain employee benefits associated with pre-sale service that would otherwise be forgone because of the sale.

11. The savings provisions also recognise the post-sale service of specific categories of employees as public employment for the purposes of qualifying for certain deferred pension benefits under the *Defence Force Retirement and Death Benefits Act 1973*.

Division 1 - Transitional and saving provisions relating to the *Safety, Rehabilitation and Compensation Act 1988*

Clause 5 - Interpretation

Commencement: [Transfer Time]

12. This clause provides for the expressions used in this Division to have the same meaning as in the *Safety, Rehabilitation and Compensation Act 1988* ('SRC Act').

Clause 6 - Continued application of the SRC Act to the Commonwealth Bank for certain purposes

Commencement: [Transfer Time]

13. This clause provides that upon the Bank body ceasing to be a Commonwealth authority for the purposes of the *SRC Act*, that Act continues to apply to the extent provided for in this Division.

Clause 7 - Transitional provisions relating to the SRC Act that relate to employees and former employees of the Commonwealth Bank body

Commencement: [Transfer Time]

14. This clause continues the operation of the *SRC Act* in relation to injuries suffered by employees of the Commonwealth Bank body before the transfer time, and to the loss or damage to the property of such persons incurred before the transfer time. It covers former employees to the extent that they would be covered under the *SRC Act* prior to the transfer time. The provision is not intended to modify rights and obligations, only to preserve the pre-sale position.

15. Clause 7(2) provides that for the purposes of the saved operation of the *SRC Act* under clause 7(1), a Commonwealth Bank body, post transfer time, is to be treated as a Commonwealth authority, and the chief executive officer of a Commonwealth Bank body is to be treated as the principal officer of a Commonwealth authority.

Clause 8 - Payment of premiums

Commencement: [Transfer Time]

16. Clause 8 provides for Division 4A of Part VII of the *SRC Act* to continue to apply to the Commonwealth Bank body under certain circumstances. Division 4A relates to premiums payable by Commonwealth authorities and Departments to Comcare.

17. Clause 8(1) provides that a Commonwealth Bank body continues as an authority for the purposes of the Division, but that it is not required to pay a premium for that part of the financial year following the transfer time, and that Comcare may vary a premium, taking into account the fact that a Commonwealth Bank body is not required to pay a premium for part of a financial year.

18. Clause 8(2) provides that any unpaid amount of premium, payable by a Commonwealth Bank body in respect of a period before the transfer time, is a debt due to the Commonwealth by the Bank body and is payable to Comcare.

Clause 9 - Transitional provision relating to Part VIIIA of the SRC Act

Commencement: [Transfer Time]

19. Part VIIIA of the *SRC Act* allows for a body to be licensed to perform certain functions under the Act rather than have Comcare perform them. This provision provides for any such licence to be cancelled from the transfer time. Clause 10 provides for a licence fee paid in relation to the period after transfer to be refunded. Any on-going obligation under the licence for the period prior to the transfer time would remain in force.

Clause 10 - Refund of licence fee

Commencement: [Transfer Time]

20. This clause provides for a pro-rata refund of any licence fee paid under section 107R of the *SRC Act* in the event that the Commonwealth Bank body is granted a licence prior to the transfer time (for the remaining period after the transfer time).

Clause 11 - Amendment of declarations

Commencement: [Transfer Time]

21. This clause removes references to Commonwealth Bank bodies from declarations under the *SRC Act* identifying a Commonwealth Bank body as a Commonwealth authority to which the *SRC Act* applies. From the transfer time, it is intended that a Commonwealth Bank body will be required to comply with generally applicable workers' compensation legislation (including possibly remaining covered under the *SRC Act* (Part VIIIB) but under conditions different to those applying to Commonwealth authorities). The provision does not prevent subsequent amendment or revocation of the declarations.

Clause 12 - Section 128A of the SRC Act

Commencement: [Transfer Time]

22. Clause 12 provides that a Commonwealth Bank body that was, before the transfer time, liable as a prescribed Commonwealth authority to pay an amount in respect of an injury, loss or damage suffered by one of its employees under section 128A of the *SRC Act*, continues to be liable after the transfer time.

Clause 13 - Notification of amount of salary etc

Commencement: [Transfer Time]

23. Clause 13 requires the Commission for Safety, Rehabilitation and Compensation of Commonwealth Employees to be notified of the amount of pay, salary or wages paid to employees of a Commonwealth Bank body (which was a Commonwealth authority under the *SRC Act* immediately before the transfer time) for that part of the financial year ending at the transfer time. The Commission must be notified by the chief executive officer (however described) of the Commonwealth Bank body within 28 days after the transfer time.

Division 2 - Transitional and Savings Provisions relating to the *Defence Force Retirement and Death Benefits Act 1973*

Clause 14 - Interpretation

Commencement: [Transfer Time]

24. Clause 14 defines the references to the *Defence Force Retirement and Death Benefits Act 1973* as references to the *DFRDB Act*.

Clause 15 - Deferred benefits

Commencement: [Transfer Time]

25. Current employees of a Commonwealth Bank body who were formerly members of the Defence Forces and who have elected to take deferred benefits under the *DFRDB Act* are required to complete an aggregate of 20 years (in most circumstances) in the Defence Force or in subsequent public employment to enable benefits to be paid.

26. In the absence of a specific provision, an employee who has not served the required period prior to the Commonwealth ceasing to have a controlling interest in a Commonwealth Bank body, would lose his or her entitlement to the benefits available under the *DFRDB Act*.

27. Clause 15 is intended to enable former members of the Defence Force who:

- are employed by the Commonwealth Bank body immediately before the transfer time;
- had deferred their benefits under the *DFRDB Act*; and
- were accruing service in public employment with that body,

to count employment with the Commonwealth Bank body as public employment even after the transfer time.

28. Subject to relevant eligibility criteria, these employees would be entitled to their deferred benefits if they remain with the Commonwealth Bank body (or in other public employment) until the qualifying period (usually 20 years) is completed.

Clause 16 - Periods of eligible employment

Commencement: [Transfer Time]

29. Clause 16 provides that any period of employment with the Commonwealth Bank body which would have been eligible employment for the purposes of Division 3 of Part IX of the *DFRDB Act* (which allows for the preservation of rights of contributing members who cease to be members of the Defence Force), prior to the transfer time, will continue to be regarded as eligible employment for the purposes of the Division.

Division 3 - Miscellaneous

Clause 17 - Saving previous operation of section 109 of the *Commonwealth Banks Act 1959*

Commencement: [Transfer Time]

30. Section 109 of the *Commonwealth Banks Act 1959* is to be repealed (refer to item 33 of the Schedule) as a result of the conversion of the Commonwealth Bank Officers Superannuation Corporation into a company under the Corporations Law. Clause 17 provides that the assets and liabilities vested in the Commonwealth Bank under section 109 of the *Commonwealth Banks Act 1959* before the repeal of section 109 will remain vested in the Commonwealth Bank.

Clause 18 - Application of section 63A of the *Income Tax Assessment Act 1936*

Commencement: [Transfer Time]

31. The taxation provisions under clause 18 are designed to provide certainty in respect to the sale of the Commonwealth Bank of the same effect as through the exercise of the Commissioner's discretion under subsection 63A(12) of the *Income Tax Assessment Act 1936*. For this purpose, section 63A, which contains a continuity of ownership test, will be deemed not to apply to the disposal of the Commonwealth's shareholding in the Commonwealth Bank to private shareholders.

32. Section 63A requires, as a condition for a deduction to be allowed under section 63 for a bad debt written off by a company, that a majority of shares in the company must be beneficially owned by the same shareholders who beneficially owned the majority of shares immediately before the debt came into existence.

33. Subsection 63A(12) applies where the Commissioner considers that, having regard to the persons who were beneficial owners of the company's shares when the debt became bad, it would be unreasonable for the test to apply. Since the purpose of section 63A is to deter changes in ownership motivated by a wish to attract the deduction in section 63, the purpose of the Commissioner's discretion is to prevent the operation of the section 63A in circumstances where no such motive is evident. Therefore the provision is fully consistent with the intention of section 63A.

34. Clause 18 will apply in all circumstances where sale of the Commonwealth's shareholding might otherwise constitute a change of ownership in the terms of section 63A, that is, either at the transfer time or the completion time and irrespective of whether the sale is so structured that an intermediary or intermediaries are interposed between the Commonwealth as seller and the buyers of the Commonwealth's shares.

35. Clause 18 will not prevent section 63A from applying to any subsequent change in ownership of the Commonwealth Bank or to any previous or concurrent change in ownership of a "Bank body" as defined in Part 1 of the Bill which is caused other than by disposal of the Commonwealth's shareholding in the Commonwealth Bank.

Clause 19 - Regulations

Commencement: [Transfer Time]

36. Clause 19 enables regulations to be made regarding any savings or transitional matters arising out of the Commonwealth's sale of its shares in the Commonwealth Bank or related matters arising out of the enactment of the *Commonwealth Bank Sale Bill 1995*. Subclause 19(3) provides that

such regulations can take effect retrospectively but not earlier than the transfer time. Without subclause 19(3), regulations relating to savings and transitional matters related to the sale may not be able to commence before the date they are notified in the Gazette thereby potentially frustrating the sale.

PART 4 - EXEMPTION FROM CERTAIN TAXES

Clause 20 - Exemption from certain State and Territory taxes

Commencement: [Royal Assent]

37. This provision exempts from State and Territory taxes, fees (other than fees under the Corporations Law), duties, levies and charges for a variety of transactions relating to the Commonwealth's disposal of its shares in the Commonwealth Bank, including:

- the sale by the Commonwealth of any of its shares in the Commonwealth Bank and any agreements relating thereto (other than a sale of such shares to the Commonwealth Bank, ie any Commonwealth Bank buy back of its shares from the Commonwealth will not be covered by this exemption);
- the transfer of any of the Commonwealth's shares in the Commonwealth Bank to a person other than the Commonwealth Bank; and
- the receipt of money by the Commonwealth in respect of a sale of its shares in the Commonwealth Bank.

38. The intention of this provision is to enhance the attractiveness of the Commonwealth's sale of its Commonwealth Bank shares to eligible potential purchasers.

39. The Minister for Finance, or the Secretary to the Department of Finance or an authorised delegate (who must be a member of the Senior Executive Service) may certify that a matter is exempt or has been done because of, or for a purpose connected with or arising out of, a specified exempt matter. Such a certificate is evidence of that matter unless the contrary is established.

40. The Commonwealth has indicated its in-principle support for providing relevant States and Territories with an ex-gratia payment compensating them for stamp duty foregone.

41. The Minister may publish a notice in the Gazette declaring that the exemption does not apply in relation to a particular impost.

SCHEDULE

AMENDMENT OF ACTS

42. The main objectives of the Schedule to the *Commonwealth Bank Sale Bill 1995* are to:

- make the necessary amendments to the *Commonwealth Banks Act 1959*, the *Banking Act 1959* and the *Banks (Shareholdings) Act 1972* to facilitate the sale of the Commonwealth's shares in the Commonwealth Bank;
- provide for the conversion of the Commonwealth Development Bank and the Commonwealth Bank Officers Superannuation Corporation into Corporations Law companies;

- provide the transitional arrangements relating to the Commonwealth's guarantee of the liabilities of the Commonwealth Bank and the Commonwealth Bank Officers Superannuation Corporation (including the on-going Commonwealth guarantee of the liabilities of the Commonwealth Development Bank);
- provide the transitional arrangements relating to the protection of the business names of the Commonwealth Bank and the Commonwealth Development Bank; and
- make consequential amendments to various Acts which refer to Commonwealth Bank bodies (including the Commonwealth Banking Corporation) which will no longer be applicable from the transfer time.

Administrative Decisions (Judicial Review) Act 1977

Item 1 - Schedule 1

Commencement: [10 years from the Transfer Time]

43. This item removes reference to decisions made under the *Commonwealth Banks Act 1959* from the Schedule of the *Administrative Decisions (Judicial Review) Act 1977* as classes of decisions that are not decisions to which this Act applies. The *Commonwealth Banks Act 1959* will provide for no decisions to be made that affect the *Administrative Decisions (Judicial Review) Act 1977* 10 years after the transfer time.

Australian Bicentennial Authority Act 1980

Item 2 - Section 3

Commencement: [Transfer Time]

44. This item omits 'the Commonwealth Bank of Australia' from the definition of approved bank for the purposes the *Australian Bicentennial Authority Act 1980*. Following this amendment, the Commonwealth Bank can seek to be an approved bank for the purposes of the *Australian Bicentennial Authority Act 1980* in the same way as any other bank.

Banking Act 1959

Item 3 - Section 5

Commencement: [Transfer Time]

45. This item omits the Commonwealth Bank and Commonwealth Development Bank from the section 5 definition of 'bank' under the *Banking Act 1959*. The Commonwealth Bank and Commonwealth Development Bank have previously been subject to the *Banking Act 1959* because they have been defined as banks in section 5. The Commonwealth Bank and Commonwealth Development Bank will be receiving separate banking authorities under section 9 (Authority to Carrying on Banking Business) of the *Banking Act 1959*. Under section 9, the Commonwealth Bank and Commonwealth Development Bank will be subject to the *Banking Act 1959* in the same way as other authorised banks.

Items 4 and 5 - Section 5

Commencement: [Transfer Time]

46. These items omit the definitions of “the Commonwealth Bank” and “the Commonwealth Development Bank” from section 5 of the *Banking Act 1959*.

Item 6 - Subsection 5(2)

Commencement: [Transfer Time]

47. This item omits the interpretation of a reference to ‘Schedule’ for the purposes of the *Banking Act 1959*. It is generally accepted in Commonwealth legislation that reference to ‘Schedule’ in any Act refers to a ‘Schedule’ in that Act. This item also omits the definition of senior officer in relation to the Commonwealth Bank and the Commonwealth Development Bank.

Banks (Shareholdings) Act 1972

Items 7 to 9 - Subsection 6(1)

Commencement: [Transfer Time]

48. References to the Commonwealth Bank and the Commonwealth Development Bank are omitted from the ‘Interpretation’ of the *Banks (Shareholdings) Act 1972*. The Commonwealth Bank and the Commonwealth Development Bank will no longer be required to be specifically defined in the *Banks (Shareholdings) Act 1972* because they will be subject to the *Banks (Shareholdings) Act 1972* when they receive a banking authority under section 9 of the *Banking Act 1959*.

Items 10 to 15 - Subsections 10(1AA), 10(11) and 10(11A), Section 10A and Subsections 12(1) and 13(1)

Commencement: [Transfer Time]

49. These items apply so that section 10 (Limitation of Shareholdings in Banks) of the *Banks (Shareholdings) Act 1972* applies to the Commonwealth Bank and the Commonwealth Development Bank. These items also allow the Commonwealth and its associates to hold more than 10 per cent of the Commonwealth Bank under the *Banks (Shareholdings) Act 1972* as the interest will be disregarded. When the Commonwealth’s shareholding falls below 10 per cent, these items facilitate a proclamation to repeal subsection 11A. Subsection 11A allows for the disregarding of the Commonwealth’s interest.

Commonwealth Banks Act 1959

Items 16 and 17 - Section 4 (Broadening of definitions)

Commencement: [Royal Assent]

50. These items broaden the definition of ‘Corporation’ and ‘Development Bank’ under section 4 of the *Commonwealth Banks Act 1959* to include ‘that body as continuing in existence with a different name’. These items will accommodate any change in the names of the Commonwealth Development Bank and the Commonwealth Bank Officers Superannuation Corporation following their conversion to Corporations Law companies.

Item 18 - Section 4 (definitions of Managing Director, net profits, officer, Reserve Bank and Service)

Commencement: [Transfer Time]

51. This item omits various definitions from section 4 of the *Commonwealth Banks Act 1959* at the transfer time as these definitions will no longer be applicable to the Commonwealth Bank body.

Item 19 - Part II of the *Commonwealth Banks Act 1959*

Commencement: [Transfer Time]

52. This item repeals Part II of the *Commonwealth Banks Act 1959* relating to the Commonwealth Bank Board, including the Treasurer's nominee on the Board and the Managing Director. From the transfer time, the Commonwealth will not be represented on the Commonwealth Bank Board and the Board will be subject to the obligations of other approved banks and corporations under the Corporations Law.

53. The Commonwealth and the Commonwealth Bank are to negotiate appropriate accountability arrangements before the transfer time relating to the transitional Commonwealth guarantee of the liabilities of the Commonwealth Bank and the Commonwealth Bank Officers Superannuation Corporation and the on-going guarantee of the liabilities of the Commonwealth Development Bank. These arrangements will be of a contractual nature and will be binding on the Commonwealth Bank body.

Item 20 - Commonwealth Bank is not a Commonwealth authority or Commonwealth company etc.

Commencement: [Transfer Time]

54. This item provides that from the transfer time, the Commonwealth Bank will no longer be subject to legislation that applies to a Commonwealth authority or a company in which the Commonwealth has a 'controlling interest'.

55. Although the item repeals the existing section 27H of the *Commonwealth Banks Act 1959*, the existing section 27H is restated in item 20(1) and 20(2). Item 20(3) provides that from the transfer time, the Commonwealth will not have a controlling interest or a substantial interest in the Commonwealth Bank and, thus, will not be in a position to control the Commonwealth Bank. This item makes it clear that from the transfer time, the Commonwealth Bank will no longer be covered by laws that refer to 'a company in which the Commonwealth has a controlling or substantial interest'.

Item 21 - Division 3 of Part IV

Commencement: [Royal Assent]

56. Item 21 repeals Division 3 of Part IV of the *Commonwealth Banks Act 1959* regarding the restriction on the issue of shares etc in the Commonwealth Bank. Division 3 of Part IV imposed restrictions on foreign application for the initial issue of Commonwealth Bank shares and imposes a minimum Commonwealth shareholding in the Commonwealth Bank. It is necessary to repeal Division 3 of Part IV to facilitate the sale of the Commonwealth's shares in the Commonwealth Bank.

57. The *Commonwealth Bank Sale Bill 1995* does not impose any legislative restrictions on the ability of foreign interests to acquire shares in the Commonwealth Bank. However, the Commonwealth Bank will remain predominantly Australian owned immediately after the sale and will have a dispersed share ownership given the application of the *Foreign Acquisitions and Takeovers Act 1975*, the *Banks (Shareholdings) Act 1972* and the allocation policy expected to apply in the sale process.

Item 22 - Subsection 28(1A)

Commencement: [12 months from the Transfer Time]

58. This item omits subsection 28(1A) of the *Commonwealth Banks Act 1959* 12 months after the transfer time. Item 22 seeks to provide the Commonwealth Bank with a transitional period to facilitate the transfer of its insurance services to its wholly owned subsidiary, Commonwealth Connect Insurance Limited.

Item 23 - Section 28

Commencement: [Royal Assent]

59. Item 23 broadens the scope of section 28 of the *Commonwealth Banks Act 1959* by providing that the Commonwealth Bank may possess a banking authority under section 9 of the *Banking Act 1959* in addition to the banking powers accorded to it under section 28(1) of the *Commonwealth Banks Act 1959*.

60. The Commonwealth Bank is expected to obtain a banking authority under section 9 of the *Banking Act 1959*. However, the Commonwealth Bank's existing note issues have been written on the understanding that its authority to undertake general banking business under section 28(1) of the *Commonwealth Banks Act 1959* will remain. Item 23 seeks to ensure that the Commonwealth Bank will not be in breach of these note issues whilst in possession of a banking authority under section 9 of the *Banking Act 1959*.

61. The Commonwealth Bank is to provide an undertaking to the Commonwealth that it will not use its enacted banking powers under section 28(1) for any purpose other than the maintenance of those note issues entered into under section 28(1).

Item 24 - Section 32

Commencement: [Transfer Time]

62. This item repeals section 32 of the *Commonwealth Banks Act 1959* relating to the declaration of dividends by the Commonwealth Bank. From the transfer time, the Commonwealth Bank will be on the same legal footing regarding the declaration of dividends as any other approved bank and Corporations Law company.

Item 25 - Sections 71, 72, 73 and 74

Commencement: [Transfer Time]

63. This item repeals sections 71 to 74 of the *Commonwealth Banks Act 1959* relating to the nature of the Commonwealth Development Bank, its functions and powers. Sections 71 to 74 are to be repealed as they will no longer be relevant.

64. The powers of the Commonwealth Development Bank as a bank and a company will be defined in the context of its banking authority under section 9 of the *Banking Act 1959* and the Corporations Law. The Commonwealth Development Bank's current Charter (as defined under sections 72 and 73 of the *Commonwealth Banks Act 1959*) will be contained in the Memorandum of the Commonwealth Development Bank.

Item 26 - After subsection 74(1)

Commencement: [Royal Assent]

65. Item 26 broadens the scope of section 74(1) of the *Commonwealth Banks Act 1959* by providing that the Commonwealth Development Bank may possess a banking authority under section 9 of the *Banking Act 1959* in addition to the banking powers accorded to it under section 74(1) of the *Commonwealth Banks Act 1959*. Item 26 will be repealed at the transfer time and is intended to provide the Commonwealth Development Bank with flexibility regarding the attainment of a banking authority under section 9 of the *Banking Act 1959* up to the transfer time.

Item 27 - Section 74A and Preliminary steps to conversion of Development Bank into a company

Commencement: [Royal Assent]

66. Item 27 repeals the existing section 74A of the *Commonwealth Banks Act 1959* regarding the share capital of the Commonwealth Development Bank and substitutes various sub-items which provide the preliminary steps to the conversion of the Commonwealth Development Bank from a statutory authority to a limited public company under the Corporations Law.

67. Item 27 identifies the basis of the share capital for the Commonwealth Development Bank and the process to be followed by the Development Bank to register as a company limited by shares under the Corporations Law. Sub-item 27(1) provides that the Commonwealth Development Bank will continue to have the share capital (and with the same ownership) that it had before the commencement of the section. The share capital of the Commonwealth Development Bank will therefore continue to be 91.9 per cent owned by the Commonwealth Bank and 8.1 per cent owned by the Commonwealth.

68. Sub-item 27(4) provides that the Commonwealth Development Bank must apply to the Australian Securities Commission under the relevant provisions of the Corporations Law to register as a limited company, to reserve the name 'Commonwealth Development Bank of Australia Limited' and to lodge a proposed Memorandum and Articles for the Development Bank.

Item 28 - Conversion of Development Bank into a company and Development Bank is not a Commonwealth authority or Commonwealth company etc

Commencement: [Transfer Time]

69. Item 28 provides for the conversion of the Commonwealth Development Bank into a public company limited by shares under the Corporations Law from the transfer time. The item provides that from the transfer time the Commonwealth Development Bank will become a registered company under the relevant provisions of the Corporations Law with its own memorandum and articles and membership. Sub-item 28(6) provides that this item does not prevent any variation of the share

capital of the Commonwealth Development Bank, a change of its name or a change of the structure, Memorandum, Articles or membership of the Commonwealth Development Bank.

70. A shareholders' agreement (the agreement) to be entered into between the Commonwealth and the Commonwealth Bank regarding the Commonwealth Development Bank will provide that the existing Charter of the Commonwealth Development Bank as currently defined in sections 72 and 73 of the *Commonwealth Banks Act 1959*, will be retained in the Memorandum of the Commonwealth Development Bank. The agreement will also provide that:

- the Commonwealth will not be represented on the Board of the Commonwealth Development Bank;
- the Commonwealth would not have an option to purchase the shares of the Commonwealth Bank in the Commonwealth Development Bank, but the Commonwealth Bank will have an option to purchase the Commonwealth's shares in the Commonwealth Development Bank in the event that the Commonwealth decided to sell its Commonwealth Development Bank shareholding or if an adequate annual Commonwealth subsidy to the Commonwealth Development Bank was not paid; and
- the Commonwealth Bank will not exercise its voting power to amend the Memorandum and Articles of the Commonwealth Development Bank to change the Charter of the Commonwealth Development Bank while an adequate Commonwealth subsidy was in place.

71. Analogous with item 20, item 28 provides that from the transfer time, the Commonwealth Development Bank will no longer be subject to legislation that applies to a Commonwealth authority or a company in which the Commonwealth has a 'controlling interest'.

Item 29 - Sections 76 to 108

Commencement: [Transfer Time]

72. This item repeals, from the transfer time, sections 76 to 108 of the *Commonwealth Banks Act 1959* relating to the Commonwealth Development Bank's profits, management, agents, reserve fund, loans by the Treasurer and grants of financial assistance. The item also repeals those provisions of the *Commonwealth Banks Act 1959* relating to the application of the merit principle and the appointment of officers to the Commonwealth Bank and repeals the provision identifying the Commonwealth Bank Officers Superannuation Corporation.

73. These provisions of the *Commonwealth Banks Act 1959* are to be repealed as they will no longer be relevant. As public companies under the Corporations Law and with only a small minority Commonwealth shareholding (in the case of the Commonwealth Development Bank), the Commonwealth Bank body will be subject to the normal commercial reporting and management requirements of Corporations Law companies.

74. The employees of the Commonwealth Bank body will be subject to the rights and privileges defined in relevant awards for finance industry employees and the application of relevant State and Territory laws regarding equal employment opportunity.

75. The Commonwealth Bank Officers Superannuation Corporation is to be converted into a public company under the Corporations Law. Section 108 will be repealed after the conversion of

the Commonwealth Bank Officers Superannuation Corporation as it will no longer be relevant. Refer to items 31 and 32 below.

Item 30 - Heading to Part VIII

Commencement: [Transfer Time]

76. This item amends the heading to Part VIII of the *Commonwealth Banks Act 1959* to 'THE COMMONWEALTH BANK OFFICERS SUPERANNUATION CORPORATION'. This amendment is necessary as Part VIII will only refer to the Commonwealth Bank Officers Superannuation Corporation from the transfer time.

Item 31 - After section 108 - Preliminary steps to conversion of Corporation into a company

Commencement: [Royal Assent]

77. Item 31 provides the preliminary steps to the conversion of the Commonwealth Bank Officers Superannuation Corporation from a statutory fund to a limited public company under the Corporations Law. The 'Corporation' will manage the superannuation fund of the Commonwealth Bank in accordance with the Trust Deed under item 34.

78. Item 31 identifies the basis of the share capital for the Corporation and the process to be followed by the Commonwealth Bank to register the Commonwealth Bank Officers Superannuation Corporation as a company limited by shares under the Corporations Law. Sub-item 31(3) provides that as soon as practicable after the Corporation has acquired a share capital, it must issue these shares to the Commonwealth Bank.

79. Sub-item 31(5) provides that the Commonwealth Bank must apply to the Australian Securities Commission under the relevant provisions of the Corporations Law to register the Corporation as a limited company, to reserve the name 'Commonwealth Bank Officers Superannuation Corporation' and to lodge a proposed Memorandum and Articles for the Corporation.

Item 32 - After section 108A - Conversion of Corporation into a company and Corporation is not a Commonwealth authority or Commonwealth company etc

Commencement: [Transfer Time]

80. Item 32 provides for the conversion of the Commonwealth Bank Officers Superannuation Corporation into a public company limited by shares under the Corporations Law from the transfer time. The item provides that from the transfer time the Commonwealth Bank Officers Superannuation Corporation will become a registered company under the relevant provisions of the Corporations Law with its own Memorandum and Articles and membership. Sub-item 32(7) provides that this item does not prevent any variation of the share capital of the Commonwealth Bank Officers Superannuation Corporation, a change of its name or a change of its structure, Memorandum, Articles or membership.

81. Analogous with items 20 and 28, item 32 provides that from the transfer time, the Commonwealth Bank Officers Superannuation Corporation will no longer be subject to legislation that applies to a Commonwealth authority or a company in which the Commonwealth has a 'controlling interest'.

Item 33 - Section 109

Commencement: [Transfer Time]

82. This item repeals section 109 of the *Commonwealth Banks Act 1959* relating to the assets and liabilities of the Corporation. Section 109, which relates to the Corporation as a statutory fund, is to be repealed from the transfer time as it will no longer be relevant when the Corporation is converted.

83. Clause 17 provides a savings provision to subsections 109(1) and 109(2) as substantial assets and liabilities have been vested in the Commonwealth Bank by the Corporation under subsections 109(1) and 109(2) of the *Commonwealth Banks Act 1959*.

Item 34 - Section 110 - Superannuation fund

Commencement: [Transfer Time]

84. This item repeals section 110 of the *Commonwealth Banks Act 1959* relating to the superannuation fund of the Corporation and substitutes a new superannuation fund provision. The item effectively facilitates the transfer of the superannuation fund from the statutory fund to the Corporations Law corporation. The item provides that the fund that was in existence under section 110 of the *Commonwealth Banks Act 1959* (including the rights and liabilities of fund members and beneficiaries), continues in existence and is to be governed by the Trust Deed that applied before the commencement of this section.

Items 35 and 36 - Sections 114 and 116

Commencement: [Transfer Time]

85. These items repeal sections 114 and 116 of the *Commonwealth Banks Act 1959* relating to the interpretation of Part IX of the *Commonwealth Banks Act 1959* and the appointment of attorneys. These sections are to be repealed as they will no longer be relevant from the transfer time.

Item 37 - Section 117 - Guarantee by the Commonwealth

Commencement: [Transfer Time or at the beginning of 9 May 1996, whichever is later]

86. This item provides transitional arrangements for the Commonwealth guarantee of the liabilities of the Commonwealth Bank and its subsidiaries (except the Commonwealth Development Bank) and the Commonwealth Bank Officers Superannuation Corporation from the transfer time or the beginning of 9 May 1996 whichever is the later (the 'effective date'). The transitional period for which the guarantee applies is dependent on whether the liability is a demand deposit, a term deposit or any other liability.

87. Item 37 provides that the Commonwealth guarantees:

- the due payment of any amount that is payable by the Commonwealth Bank on a demand deposit from the effective day until the end of the day three years after the effective date (the cut-off time);
- the due payment of any amount that is payable by the Commonwealth Bank on a term deposit, made before the cut-off time, until the payment of the term deposit; and

all other liabilities and off-balance sheet obligations in place prior to the commencement of this item until the maturity of these liabilities.

88. Sub-item 37(2) provides that the Commonwealth will continue to guarantee all of the liabilities of the Commonwealth Development Bank that are payable to a person, other than the Commonwealth.

89. Sub-item 37(3) provides that the Commonwealth will guarantee the liabilities of the Commonwealth Bank Officers Superannuation Corporation (or the superannuation fund) for a person who was a member, retired member or beneficiary before the commencement of this section.

90. The Commonwealth and the Commonwealth Bank are to negotiate appropriate accountability arrangements before the transfer time relating to the Commonwealth guarantee of the liabilities of the Commonwealth Bank and its subsidiaries (including the Commonwealth Development Bank) and the Commonwealth Bank Officers Superannuation Corporation. These arrangements will be of a contractual nature and will be binding on the Commonwealth Bank body.

Item 38 - Sections 118 to 127

Commencement: [Transfer Time]

91. This item repeals sections 118 to 127 of Part IX of the *Commonwealth Banks Act 1959* relating to the *Companies Act 1981*, taxation matters, property improvements, the execution of contracts, the affixing of seals, persons dealing with bodies, judicial notice of seals, investment of trust moneys and the validity of acts and transactions. These sections are being repealed as they will no longer be relevant to the Commonwealth Bank body after the transfer time.

Items 39 to 41 - Subsections 128(1) and 128(2)

Commencement: [Transfer Time]

92. This item broadens the application of section 128 of the *Commonwealth Banks Act 1959* regarding the use of certain names from 'the Commonwealth Bank' to 'a Bank body'. This amendment will allow for the Commonwealth Development Bank of Australia Limited to use certain names.

Item 42 - Subsection 128(2A)

Commencement: [Transfer Time]

93. This item provides that for 6 months from the transfer time, each protected name of the Commonwealth Development Bank of Australia Limited is to be regarded as a name of the Development Bank for the purposes of section 219 of the Corporations Law.

94. Following its conversion to a limited public company under the Corporations Law from the transfer time, the Commonwealth Development Bank of Australia Limited would not normally be permitted to use any other business name but its registered name in shop fronts and public documents as defined under the Corporations Law. This item provides the Commonwealth Development Bank of Australia Limited with a six month period to make the necessary adjustments to its shop fronts and documentation before having to comply with the relevant application of the Corporations Law.

Items 43, 44, 45 and 46 - Subsection 128(3) and Subsection 128(6) (definition of protected name)

Commencement: [Transfer Time]

95. These items broaden the application of subsection 128(3) and the definitions under subsection 128(6) of the *Commonwealth Banks Act 1959* regarding protected business names. These amendments will allow the Commonwealth Development Bank of Australia Limited to protect certain names for a transitional period.

Item 47 - Subsection 128(6)

Commencement: [Transfer Time]

96. This item provides the Commonwealth Development Bank of Australia Limited with various protected names for a transitional period of 10 years.

Item 48 - Section 128

Commencement: [10 years from the Transfer Time]

97. This item repeals section 128 of the *Commonwealth Banks Act 1959* 10 years from the transfer time. Section 128 is to be retained for this period to provide the Commonwealth Bank body with sufficient opportunity to develop appropriate strategies to utilise the value of its protected names.

Item 49 - Section 129

Commencement: [Transfer Time]

98. This item amends the regulation making powers under section 129 of the *Commonwealth Banks Act 1959* by omitting reference to the 'conduct of business by the Development Bank'. This amendment is necessary as the business of the Commonwealth Development Bank of Australia Limited will be defined in its Memorandum and Articles as a limited public company under the Corporations Law and its banking authority under section 9 of the *Banking Act 1959*.

Crimes (Currency) Act 1981

Item 50 - Subsection 28(1)

Commencement: [Transfer Time]

99. This item omits the term 'Commonwealth Banking Corporation Service' from the *Crimes (Currency) Act 1981*. The term 'Commonwealth Banking Corporation Service' was made redundant in a previous amendment to the *Commonwealth Banks Act 1959*. The proposed consequential amendments in the *Commonwealth Bank Sale Bill 1995* will not affect the application of the *Crimes (Currency) Act 1981*.

Defence (Re-establishment) Act 1965

Item 51 - Subsection 57(1)

Commencement: [Transfer Time]

100. This item omits reference to the Commonwealth Bank and the Commonwealth Development Bank as banks. This item does not limit the scope of the *Defence (Re-establishment) Act 1965* as this Act allows an agreement to be made with any bank.

Freedom of Information Act 1982

Item 52 - Part 1 of Schedule 2

Commencement: [Transfer Time]

101. This item removes references to past and present Commonwealth banking bodies in Schedule 2 from the *Freedom of Information Act 1982*. At transfer time, past and present Commonwealth banking bodies will cease to be subject to the *Freedom of Information Act 1982* irrespective of whether or not they are identified in Schedule 2 of the Act.

National Crime Authority Act 1984

Item 53 - Schedule 2

Commencement: [Transfer Time]

102. This item removes past and present Commonwealth Bank bodies from the Schedule that requires these bodies to comply with the *National Crime Authority Act 1984*. At transfer time, past and present Commonwealth Bank bodies will no longer be subject to the *National Crime Authority Act 1984*.

Northern Territory (Lessees' Loans Guarantee) Act 1954

Item 54 - Section 3 (definition of bank)

Commencement: [Transfer Time]

103. This item removes from the definition of bank in the *Northern Territory (Lessees' Loans Guarantee) Act 1954*, past and present Commonwealth Bank bodies. The Commonwealth Bank and the Commonwealth Development Bank will remain in the definition of bank under the *Northern Territory (Lessees' Loans Guarantee) Act 1954* by virtue of being authorised under section 9 of the *Banking Act 1959*.

Occupational Health and Safety (Commonwealth Employment) Act 1991

Item 55 - Schedule

Commencement: [Transfer Time]

104. This item omits the Commonwealth Bank from the list of Government Business Enterprises to which the *Occupational Health And Safety (Commonwealth Employment) Act 1991* applies. At

transfer time, the Commonwealth Bank will no longer be a Commonwealth authority and will cease to be subject to the *Occupational Health And Safety (Commonwealth Employment) Act 1991*.

Papua New Guinea (Transfer of Banking Business) Act 1973

Item 56 - Section 10 (definition of authorised officer)

Commencement: [Transfer Time]

105. This item omits senior officers of past and present Commonwealth Bank bodies from the definition of authorised officers for the purposes of the *Papua New Guinea (Transfer of Banking Business) Act 1973*.

Reserve Bank Act 1959

Item 57 - Section 5 (definition of bank)

Commencement: [Transfer Time]

106. This item removes from the definition of bank in the *Reserve Bank Act 1959* past and present Commonwealth Bank bodies. The Commonwealth Bank and the Commonwealth Development Bank will continue to be subject to the *Reserve Bank Act 1959* definition of 'bank' by virtue of being authorised under section 9 of the *Banking Act 1959*.

Item 58 - Subsection 17(2)

Commencement: [Transfer Time]

107. This item removes the exemption that permits the Secretary to the Department of the Treasury to be a member of both the Reserve Bank and Commonwealth Bank Boards. This exemption will no longer be required as the Secretary to the Department of the Treasury will cease to be a member of the Commonwealth Bank Board at transfer time.

Superannuation Industry (Supervision) Act 1993

Item 59 - Section 10 (definition of approved bank)

Commencement: [Transfer Time]

108. This item removes past and present Commonwealth Bank bodies from the definition of approved bank for the purposes of the *Superannuation Industry (Supervision) Act 1993*. The Commonwealth Bank and the Commonwealth Development Bank will remain in the definition of approved bank for the purposes of the *Superannuation Industry (Supervision) Act 1993* by virtue of being authorised under section 9 of the *Banking Act 1959*.



9 780644 343251

ISBN 0644 343257