

COMMONWEALTH BANK.

No. 16 of 1951.

An Act to repeal the *Banking Act 1947-1948*
and to amend the *Commonwealth Bank Act*
1945-1948.

[Assented to 16th July, 1951.]

BE it enacted by the King's Most Excellent Majesty, the Senate,
and the House of Representatives of the Commonwealth of
Australia, as follows:—

Short title
and citation.

1.—(1.) This Act may be cited as the *Commonwealth Bank Act* 1951.

(2.) The *Commonwealth Bank Act 1945-1948** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Commonwealth Bank Act 1945-1951*.

* Act No. 13, 1945, as amended by No. 68, 1948.

2. This Act shall come into operation on a date to be fixed by Proclamation. Commencement.

3. The *Banking Act* 1947 is repealed.

Repeal of
Banking Act
1947.
Parts.

4. Section three of the Principal Act is amended—

(a) by omitting the words—

“ Part II.—Constitution of the Commonwealth Bank.”
and inserting in their stead the words—

“ Part II.—Constitution, Policy and Management of the
Commonwealth Bank.”; and

(b) by omitting the words—

“ Part V.—Management of the Commonwealth Bank.

Division 1.—The Governor and Deputy Governor.

Division 2.—The Advisory Council.”

and inserting in their stead the words—

“ Part V.—The Commonwealth Bank Board and the
Governor and Deputy Governor of the Bank.”.

5. Section five of the Principal Act is amended—

(a) by inserting before the definition of “ the Deputy Governor ”
the following definition :—

Definitions.

“ ‘ the Board ’ means the Commonwealth Bank Board
established by this Act ; ”; and

(b) by adding at the end thereof the following sub-section :—

“ (2.) In this Act, any reference to the policy of the
Bank, or to the monetary and banking policy of the
Bank, includes a reference to the policy of the Bank,
or to the monetary and banking policy of the Bank, as
the case may be, in the performance of its functions under
the *Banking Act* 1945 or under any other Act.”.

6. The heading to Part II. of the Principal Act is omitted and
the following heading inserted in its stead :—

Heading to
Part II.

“ PART II.—CONSTITUTION, POLICY AND MANAGEMENT OF THE
COMMONWEALTH BANK.”.

7. Section nine of the Principal Act is repealed and the following
sections are inserted in its stead :—

“ 9.—(1.) There shall be a Commonwealth Bank Board, which
shall be constituted in accordance with Part V. of this Act.

Establishment
and functions of
Commonwealth
Bank Board.

“ (2.) Subject to this Part, the Board shall have power to
determine the policy of the Bank or of the Savings Bank in relation
to any matter and to take such action as is necessary to ensure that
effect is given by the Bank or the Savings Bank to the policy so
determined.

Differences of opinion between Government and Bank on questions of policy.

“ 9A.—(1.) The Bank shall, from time to time, inform the Government of the monetary and banking policy of the Bank.

“ (2.) In the event of a difference of opinion between the Government and the Bank as to whether the monetary and banking policy of the Bank is directed to the greatest advantage of the people of Australia, the Treasurer and the Board shall endeavour to reach agreement.

“ (3.) If the Treasurer and the Board are unable to reach agreement, the Board shall forthwith furnish to the Treasurer a statement in relation to the matter in respect of which the difference of opinion has arisen.

“ (4.) The Treasurer may then submit a recommendation to the Governor-General, and the Governor-General, acting with the advice of the Federal Executive Council, may, by order, determine the policy to be adopted by the Bank.

“ (5.) The Treasurer shall inform the Bank of the policy so determined and shall at the same time inform the Bank that the Government accepts responsibility for the adoption by the Bank of that policy and will take such action (if any) within its powers as the Government considers to be necessary by reason of the adoption of that policy.

“ (6.) The Bank shall thereupon give effect to the policy determined by the order and shall, if the order so requires, continue to give effect to that policy while the order remains in operation.

“ (7.) The Treasurer shall cause to be laid before each House of the Parliament, within fifteen sitting days of that House after the Treasurer has informed the Bank of the policy determined under sub-section (4.) of this section—

- (a) a copy of the order determining the policy ;
- (b) a statement by the Government in relation to the matter in respect of which the difference of opinion arose ; and
- (c) a copy of the statement furnished to the Treasurer by the Board under sub-section (3.) of this section.

Management of the Bank.

“ 9B.—(1.) There shall be a Governor of the Bank and a Deputy Governor of the Bank, who shall be appointed and hold office in accordance with Part V. of this Act.

“ (2.) Subject to the next succeeding sub-section, the Bank shall be managed by the Governor.

“ (3.) In the management of the Bank, the Governor shall act in accordance with the policy of the Bank and with any directions of the Board.

“ (4.) The Deputy Governor shall perform such duties as the Governor directs and, in the event of a vacancy in the office of Governor, the Deputy Governor shall perform the duties of the Governor and shall have and may exercise the powers and functions of the Governor.

“9c. The Governor and the Secretary to the Department of the Treasury shall establish a close liaison with each other and shall keep each other fully informed on all matters which jointly concern the Bank and the Department of the Treasury.”

Bank and
Treasury to
establish liaison.

8. Section fifteen of the Principal Act is repealed and the following section inserted in its stead :—

“15.—(1.) The net profits of the Bank in each year arising from business carried on under this Part shall be dealt with as follows :—

Profits and
Reserve Fund.

(a) one-half shall be paid into the National Debt Sinking Fund ;
and

(b) subject to this section, one-half shall be placed to the credit of the fund known as the Commonwealth Bank Reserve Fund.

“(2.) The Bank may pay to the Division and Departments specified in the next succeeding sub-section, in accordance with that sub-section, out of that portion of the net profits of a year (being a year to which this sub-section applies) which is otherwise required to be placed to the credit of the Commonwealth Bank Reserve Fund, such amount, not exceeding Five hundred thousand pounds, as the Board, having regard to the amount standing to the credit of that Fund, determines.

“(3.) The payment of an amount under the last preceding sub-section shall, unless the Treasurer otherwise approves, be made as follows :—

(a) two-sevenths of the amount shall be paid to the General Banking Division ;

(b) one-seventh of the amount shall be paid to the Rural Credits Department ;

(c) two-sevenths of the amount shall be paid to the Mortgage Bank Department ; and

(d) two-sevenths of the amount shall be paid to the Industrial Finance Department.

“(4.) Sub-section (2.) of this section applies only to the first year the net profits of which are dealt with after the date of commencement of this section and to the four succeeding years.

“(5.) The Bank may, from time to time, transfer from the Commonwealth Bank Reserve Fund to the capital of the Bank for the purposes of this Part such sums as the Board determines.”

9. Section nineteen of the Principal Act is amended—

Capital.

(a) by omitting from paragraph (a) the word “and” (last occurring) ; and

(b) by inserting after that paragraph the following paragraph :—
“(aa) such sums as are paid to the Division in pursuance of sections fifteen and forty-seven of this Act ; and ”.

10. Part V. of the Principal Act is repealed and the following Part inserted in its stead :—

“ PART V.—THE COMMONWEALTH BANK BOARD AND THE GOVERNOR AND DEPUTY GOVERNOR OF THE BANK.

Membership of Board.

“ 23.—(1.) The Commonwealth Bank Board shall consist of—

- (a) the Governor ;
- (b) the Deputy Governor ;
- (c) the Secretary to the Department of the Treasury ; and
- (d) seven other members, who shall be appointed by the Governor-General in accordance with the succeeding provisions of this section.

“ (2.) Of the seven members appointed under paragraph (d) of the last preceding sub-section, at least five shall be persons who are not officers of the Bank or of the Public Service of the Commonwealth.

“ (3.) A member appointed under paragraph (d) of sub-section (1.) of this section who is an officer of the Bank or of the Public Service of the Commonwealth shall hold office during the pleasure of the Governor-General.

“ (4.) A member appointed under paragraph (d) of sub-section (1.) of this section (not being an officer of the Bank or of the Public Service of the Commonwealth)—

- (a) shall, subject to this section, be appointed for a period of five years ;
- (b) shall hold office subject to good behaviour ; and
- (c) shall be eligible for re-appointment upon the expiration of his period of office.

“ (5.) Each of the members of the Board who are first appointed under paragraph (d) of sub-section (1.) of this section (not being an officer of the Bank or of the Public Service of the Commonwealth) shall be appointed for a period, not exceeding five years, determined by the Governor-General, and the periods of appointment shall be so determined as to ensure that the period of appointment of at least one of those members shall expire at the end of each year of the period of five years commencing on the date from which those first appointments take effect.

“ (6.) In the event of a member of the Board appointed under this section for a specified period ceasing to hold office before the termination of that period and the appointment in his place of a person other than an officer of the Bank or of the Public Service of the Commonwealth, the period of that appointment shall be the remainder of the period of office of the member so ceasing to hold office.

Remuneration of members.

“ 24. A member of the Board shall be paid by the Bank such remuneration (if any) as the Governor-General determines.

“ 25. A member of the Board shall, before entering upon his duties or exercising any power under this Act, make, before a Justice of the Peace or a Commissioner for taking Affidavits, an oath or affirmation of allegiance in accordance with the form in the Schedule to the Constitution and a declaration of secrecy in accordance with the prescribed form. **Declaration by members.**

“ 26. A person who is a director or employee of a corporation (other than the Bank) the business of which is wholly or mainly that of banking shall not be capable of appointment, or of continuing to act, as a member of the Board. **Disqualifications from membership.**

“ 27. A member of the Board appointed under paragraph (d) of sub-section (1.) of section twenty-three of this Act (not being an officer of the Bank or of the Public Service of the Commonwealth) shall be deemed to have vacated his office if— **Office of member vacated in certain circumstances.**

- (a) he becomes bankrupt or insolvent, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit ;
- (b) he absents himself (except on leave granted by the Governor-General) from all meetings of the Board held during two consecutive months or during any three months in any period of twelve months ; or
- (c) he becomes permanently incapable of performing his duties.

“ 28. The exercise of the rights, powers, authorities or functions, or the performance of the duties or obligations, of the Board shall not be affected by reason only of there being a vacancy in the office of a member. **Vacancies not to invalidate proceedings.**

“ 29. The Governor shall be the Chairman of the Board and the Deputy Governor shall be the Deputy Chairman of the Board. **Chairman and Deputy Chairman.**

“ 30.—(1.) The Board shall meet at such times and places as the Board determines or as the Chairman or the Deputy Chairman directs. **Meetings of Board.**

“ (2.) The Chairman shall preside at all meetings of the Board at which he is present and, in the absence of the Chairman, the Deputy Chairman shall preside.

“ (3.) Six members, of whom the Chairman or the Deputy Chairman shall be one, shall form a quorum at a meeting of the Board.

“ (4.) Questions arising at a meeting of the Board shall be decided by a majority of the votes of the members present and voting.

“(5.) The member presiding at a meeting of the Board shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

Appointment,
 &c., of
 Governor and
 Deputy
 Governor.

“31.—(1.) The Governor and the Deputy Governor shall be appointed by the Governor-General and shall hold office during good behaviour for a period not exceeding seven years but shall be eligible for re-appointment.

“(2.) The persons holding office as Governor and Deputy Governor of the Bank immediately prior to the commencement of this Part shall, subject to this Part, continue to hold office for the remainder of their respective periods of appointment.

“(3.) The Governor and the Deputy Governor shall be paid by the Bank such salary and allowances as the Governor-General determines.

Vacation of
 office in
 certain
 circumstances.

“32. The Governor or the Deputy Governor shall be deemed to have vacated his office if—

- (a) he engages in any paid employment outside the duties of his office ;
- (b) he becomes bankrupt or insolvent, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his salary for their benefit ; or
- (c) he becomes permanently incapable of performing his duties.”.

11. Section forty-seven of the Principal Act is repealed and the following section inserted in its stead :—

Disposal of
 profits.

“47.—(1.) The profits derived in each year from the issue of Australian notes (after payment of the working expenses of the Note Issue Department and after payment to the Bank of a commission at a rate approved by the Governor-General) shall, subject to this section, be paid to the Commonwealth.

“(2.) Where, under section fifteen of this Act, an amount out of the net profits of the Bank in any year is paid to the Division and Departments specified in sub-section (3.) of that section, the Bank shall pay to that Division and those Departments, out of the profits referred to in the last preceding sub-section which are derived in that year, an amount equal to the amount so paid under section fifteen of this Act.

“(3.) An amount paid under the last preceding sub-section out of profits derived in any year shall, unless the Treasurer otherwise approves, be apportioned amongst the Division and Departments to which it is paid in the proportions in which the amount paid to them under section fifteen of this Act, out of profits of that year, is apportioned.”.

12. Section sixty-four of the Principal Act is repealed and the following section inserted in its stead :—

“ 64. The capital of the Rural Credits Department shall be the aggregate of— Capital of Department.

- (a) the sum of Two million pounds, being the amount of the capital of the Rural Credits Department immediately prior to the commencement of this section ; and
- (b) such sums as are paid to that Department in pursuance of sections fifteen and forty-seven of this Act.”.

13. Section seventy-six of the Principal Act is repealed and the following section inserted in its stead :—

“ 76. The capital of the Mortgage Bank Department shall be the aggregate of— Capital of Department.

- (a) the amount of the capital of the Mortgage Bank Department immediately prior to the commencement of this section ; and
- (b) such sums as are paid to that Department in pursuance of sections fifteen and forty-seven of this Act.”.

14. Section ninety-seven of the Principal Act is repealed and the following section inserted in its stead :—

“ 97. The capital of the Industrial Finance Department shall be the aggregate of— Capital of Department.

- (a) the sum of Four million pounds, being the amount of the capital of the Industrial Finance Department immediately prior to the commencement of this section ; and
- (b) such sums as are paid to that Department in pursuance of sections fifteen and forty-seven of this Act.”.

15. Section one hundred and twenty-seven of the Principal Act is repealed and the following section inserted in its stead :—

“ 127.—(1.) Subject to the next succeeding sub-section, the Savings Bank shall be managed by the Governor. Management of Savings Bank.

“ (2.) In the management of the Savings Bank, the Governor shall act in accordance with the policy of the Savings Bank and with any directions of the Board.”.

16. After section one hundred and seventy-nine of the Principal Act the following section is inserted in Part XIV. :—

“ 179A. The validity of an act or transaction of the Bank or of the Savings Bank shall not be called in question in any legal proceedings on the ground that the act or transaction is not in accordance with the policy of the Bank or of the Savings Bank or with a direction given by the Board under this Act.”. Validity of certain acts of Bank and Savings Bank.

17.—(1.) The sections of the Principal Act specified in the first column of the Schedule to this Act are amended as specified in the second column of that Schedule. Consequential amendments.

(2.) All rules made by the Governor, with the approval of the Treasurer, under section one hundred and seventy-six of the Principal Act and in force at the commencement of this section shall continue in force as if made by the Bank, with the approval of the Treasurer, under that section as amended by the last preceding sub-section, and may be amended or repealed accordingly.

Amendments of
Judges' Pensions
Act 1948.

18.—(1.) Section four of the *Judges' Pensions Act* 1948* is amended by omitting the words “, the Judge of the Supreme Court of the Australian Capital Territory and to Judges of the Federal Court of Claims” and inserting in their stead the words “and the Judge of the Supreme Court of the Australian Capital Territory”.

(2.) The Schedule to the *Judges' Pensions Act* 1948 is amended by omitting the words—

“ Banking Act 1947	Section thirty is repealed Omit from section thirty- one the words ‘and pensions’	Banking Act 1947-1948 ”.
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(3.) The *Judges' Pensions Act* 1948, as amended by this section may be cited as the *Judges' Pensions Act* 1948-1951.

Section 17.

THE SCHEDULE.

CONSEQUENTIAL AMENDMENTS.

FIRST COLUMN. Section.	SECOND COLUMN. Amendments.
20	Omit from sub-section (2.) “ Governor ”, insert “ Bank ” Omit from that sub-section “ he thinks fit ”, insert “ the Board determines ”
46	Omit “ Governor ”, insert “ Bank ”
66	Omit “ Governor ”, insert “ Board ”
73	Omit “ Governor thinks fit ”, insert “ Bank determines ”
77	Omit “ Governor ” (wherever occurring), insert “ Board ”
90	Omit “ Governor thinks fit ”, insert “ Bank determines ”
99	Omit “ Governor ” (wherever occurring), insert “ Board ”
106	Omit “ Governor thinks fit ”, insert “ Bank determines ”
140	Omit “ Governor ” (wherever occurring), insert “ Board ”
176	Omit from sub-section (1.) “ Governor ”, insert “ Bank ”
180	Omit sub-section (1.), insert the following sub-sections :— “ (1.) The Bank shall, once in each year, prepare a balance-sheet of the Bank, of the General Banking Division and of each Department of the Bank, and the Savings Bank shall, once in each year, prepare a balance-sheet of the Savings Bank. “ (1A.) The Governor shall submit the balance-sheets to the Auditor-General for report as to their correctness or otherwise, and shall transmit them, together with the reports of the Auditor-General, to the Treasurer.”