

THE SCHEDULES—*continued.*

Section 5.

## SECOND SCHEDULE.

## PRIMARY PRODUCE.

Arrowroot.	Jam.
Bran.	Meal.
Broom Millet.	Meat and meat products.
Butter and butter products.	Metals, precious and otherwise.
Canary Seed.	Milk and milk products.
Cheese.	Peanuts.
Chicory.	Pollard.
Cotton.	Pulse.
Cotton seed and cotton seed by-products.	Sandalwood.
Eggs and egg products.	Spirits.
Fish, canned or preserved.	Sugar.
Flax.	Superphosphate and materials used in the production of superphosphate.
Flour.	Tallow.
Fodder.	Timber.
Fruit Pulp.	Tobacco.
Fruits, fresh, preserved or dried.	Vegetable seeds.
Ginger.	Vegetables, fresh, preserved or dried.
Grain.	Wine.
Hides and skins.	Wool.
Hops.	

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## BANKING.

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### No. 14 of 1945.

An Act to regulate Banking, to make provision for the Protection of the Currency and of the Public Credit of the Commonwealth, and for other purposes.

[Assented to 3rd August, 1945.]

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

#### PART I.—PRELIMINARY.

- Short title.** 1. This Act may be cited as the *Banking Act 1945*.
- Commencement.** 2. Except as otherwise provided by this Act, this Act shall commence on a date to be fixed by Proclamation.
- Parts.** 3. This Act is divided into Parts, as follows:—
- Part I.—Preliminary.
- Part II.—Provisions relating to the carrying on of Banking Business.
- Division 1.—Authority to carry on Banking Business.
- Division 2.—Protection of Depositors.
- Division 3.—Special Accounts.
- Division 4.—Mobilization of Foreign Currency.
- Division 5.—Advances and Investments.

Part III.—Foreign Exchange.

Part IV.—Gold.

Part V.—Interest Rates.

Part VI.—Statistics.

Part VII.—Miscellaneous.

4.—(1.) In this Act, unless the contrary intention appears— Definitions.

“ advance ” includes loan ;

“ Australia ” includes the Territories of the Commonwealth ;

“ bank ” means a body corporate authorized under Part II. of this Act to carry on banking business in Australia ;

“ the Commonwealth Bank ” means the Commonwealth Bank of Australia.

(2.) In this Act, any reference to a Schedule shall be read as a reference to a Schedule to this Act, and any reference to a Form shall be read as a reference to a Form in the Second Schedule.

5.—(1.) Nothing in Part II. or V., or in sections forty-eight to fifty-six (inclusive) of this Act, shall apply with respect to State banking. Application of Act.

(2.) The application of this Act shall extend to all the Territories of the Commonwealth.

PART II.—PROVISIONS RELATING TO THE CARRYING ON OF BANKING BUSINESS.

*Division 1.—Authority to carry on Banking Business.*

6. Subject to this Act, a person other than a body corporate shall not, at any time after the expiration of six months from the commencement of this Part, carry on any banking business in Australia. Persons other than companies not to carry on banking business.

Penalty : One hundred pounds for each day during which the contravention continues.

7. Subject to this Act, a body corporate shall not, at any time after the expiration of six months from the commencement of this Part, carry on any banking business in Australia unless the body corporate is in possession of an authority in writing granted by the Governor-General under this Part to carry on banking business. Banking business not to be carried on without authority.

Penalty : Five thousand pounds for each day during which the contravention continues.

8.—(1.) The Governor-General shall, within seven days after the commencement of this Part, grant to each body corporate specified in the First Schedule an authority to carry on banking business in Australia. Authority to carry on banking business.

(2.) A body corporate (not being a body corporate specified in the First Schedule) which desires authority under this Part to carry on banking business in Australia may apply in writing to the Treasurer for authority accordingly.

(3.) Where any such application is made, the Governor-General may grant to that body corporate an authority to carry on banking business in Australia.

(4.) An authority under this section granted to a body corporate specified in the First Schedule which was not carrying on banking business in Australia on the twenty-sixth day of November, One thousand nine hundred and forty-one, or to a body corporate not so specified, may be granted unconditionally or subject to such conditions as are specified in the authority.

(5.) Where an authority under this section is granted subject to conditions, the Governor-General may, from time to time, vary or revoke any of those conditions or impose additional conditions.

(6.) Where an authority under this section is subject to conditions, the body corporate to which the authority is granted shall comply with those conditions.

Penalty: One thousand pounds for each day during which the contravention continues.

(7.) Every authority under this section, and every instrument made under sub-section (5.) of this section, shall be published in the *Gazette*.

(8.) An authority under this section granted to a body corporate not specified in the First Schedule shall declare that the body corporate shall be deemed to be a bank specified in Part I., or, if the body corporate is a savings bank, in Part II., of that Schedule and that Schedule shall thereupon be deemed to be amended by the addition to that Part of the name of that body corporate.

(9.) Where the Governor-General is satisfied that any body corporate in possession of an authority under this section has ceased to carry on banking business in Australia, the Governor-General may revoke the authority and notice of the revocation shall be published in the *Gazette*.

(10.) Where an authority under this section is so revoked, the First Schedule shall thereupon be deemed to be amended by the omission of the name of the body corporate concerned.

9.—(1.) An application under this Part by a body corporate, not being a body corporate specified in the First Schedule, shall be accompanied by a copy of the Act, charter, deed of settlement, memorandum of association and articles of association of the body corporate, or other document by which the body corporate is constituted.

(2.) Each body corporate specified in the First Schedule shall, within six months after the commencement of this Part, furnish to the Treasurer a copy of the Act, charter, deed of settlement, memorandum of association and articles of association of the body corporate, or other document by which the body corporate is constituted.

(3.) Every copy of an Act, charter, deed of settlement, memorandum of association, articles of association or other document furnished to the Treasurer under either of the last two preceding sub-sections shall be verified by a statutory declaration made by a senior officer of the body corporate concerned.

(4.) A bank shall, within three months after the making of any alteration in any document referred to in sub-section (1.) or (2.) of this section, furnish to the Treasurer particulars in writing (verified by a statutory declaration made by a senior officer of the bank concerned) of the alteration.

Penalty, for any offence against this section : One hundred pounds.

**10.**—(1.) Where any person desires to carry on any banking business in Australia but does not desire to carry on the general business of banking, the Treasurer may, by order published in the *Gazette*, exempt that person from compliance with such of the provisions of this Act as are specified in the order and, so long as the order continues in force, that person shall be exempt from compliance with the provisions so specified. Exemption.

(2.) An order under this section—

- (a) may be expressed to apply to a particular person or to the persons included in a class of persons ;
- (b) may specify the period during which the order shall remain in force ; and
- (c) may be made subject to such conditions as are specified in the order.

(3.) Where any such order is made subject to conditions, any person to whom the order applies shall comply with those conditions.

Penalty : One thousand pounds for each day during which the contravention continues.

#### *Division 2.—Protection of Depositors.*

**11.** It shall be the duty of the Commonwealth Bank to exercise its powers and functions under this Division for the protection of the depositors of the several banks. Commonwealth Bank to protect depositors.

**12.**—(1.) The Commonwealth Bank may, by notice in writing, require any bank to supply it, within the time specified in the notice, with such information relating to the financial stability of that bank as is specified in the notice. Supply of information.

(2.) The information supplied in compliance with a requirement under the last preceding sub-section shall be verified by a statutory declaration made by a senior officer of the bank concerned.

(3.) If a bank fails to comply with any requirement under sub-section (1.) of this section, the Commonwealth Bank may appoint an officer of the Commonwealth Bank to investigate the affairs of that bank.

**13.**—(1.) A bank which considers that it is likely to become unable to meet its obligations, or is about to suspend payment, shall forthwith inform the Commonwealth Bank. Banks unable to meet obligations.

(2.) Where a bank—

(a) so informs the Commonwealth Bank ;

(b) becomes unable to meet its obligations or suspends payment ;  
or

(c) in the opinion of the Commonwealth Bank, is likely to become unable to meet its obligations or is about to suspend payment,

the Commonwealth Bank may—

(d) appoint an officer of the Commonwealth Bank to investigate the affairs of the bank concerned ; and

(e) assume control of and carry on the business of that bank.

(3.) Where the Commonwealth Bank has, in pursuance of the last preceding section, or in pursuance of the last preceding sub-section, appointed an officer to investigate the affairs of a bank, that bank shall afford the officer access to its books, accounts and documents and shall give to the officer such information and facilities as he requires to conduct the investigation.

Penalty : One thousand pounds for each day during which the contravention continues.

(4.) Where the Commonwealth Bank has, in pursuance of sub-section (2.) of this section, assumed control of the business of a bank, that bank shall submit its business to the control of the Commonwealth Bank and shall provide the Commonwealth Bank with such facilities as the Commonwealth Bank requires to carry on the business of that bank.

Penalty : One thousand pounds for each day during which the contravention continues.

(5.) Where the Commonwealth Bank has, in pursuance of sub-section (2.) of this section, assumed control of the business of a bank, the Commonwealth Bank shall, subject to the next succeeding sub-section, remain in control of and continue to carry on, the business of that bank until such time as—

(a) the deposits with the bank have been repaid or the Commonwealth Bank is satisfied that suitable provision has been made for their repayment ; and

(b) in the opinion of the Commonwealth Bank, it is no longer necessary for the Commonwealth Bank to remain in control of the business of the bank.

(6.) Upon the application of a bank of whose business the Commonwealth Bank has assumed control in pursuance of sub-section (2.) of this section, a Full Court of the High Court constituted by not less than three Justices may, if it is satisfied that it is no longer necessary, for the protection of the depositors of that bank, that the Commonwealth Bank should remain in control of the business of that bank, order that the Commonwealth Bank shall cease to control the business of that bank, as from a date specified in the order.

(7.) Where the Commonwealth Bank, in pursuance of this section, assumes control of the business of a bank, or ceases to control the business of a bank, the Commonwealth Bank shall notify that fact in the *Gazette*.

14. The Commonwealth Bank, the Governor and Deputy Governor of the Commonwealth Bank, and any officer of the Commonwealth Bank, shall not be subject to any action, claim, or demand by, or any liability to, any person in respect of anything done or omitted to be done in good faith and without negligence in the exercise, or in connexion with the exercise, of the powers conferred on the Commonwealth Bank under this Division.

Indemnity.

15.—(1.) Except with the authority of the Commonwealth Bank, a bank shall hold assets (other than goodwill) in Australia of a value not less than the total amount of its deposit liabilities in Australia.

Assets to be held by banks.

Penalty: One thousand pounds for each day during which the contravention continues.

(2.) In the event of a bank becoming unable to meet its obligations or suspending payment, the assets of the bank in Australia shall be available to meet that bank's deposit liabilities in Australia in priority to all other liabilities of the bank.

#### *Division 3.—Special Accounts.*

16. This Division shall commence on a date to be specified by the Treasurer by notice in the *Gazette*.

Commencement.

17. This Division shall not apply to a bank specified in Part II. of the First Schedule.

Application of Division.

18.—(1.) On the day on which this Division commences, each bank shall establish with the Commonwealth Bank a Special Account for the purposes of this Division.

Establishment of Special Accounts.

(2.) On the day on which any bank (not being a bank carrying on business at the date of commencement of this Division) commences to carry on banking business in Australia, that bank shall establish with the Commonwealth Bank a Special Account for the purposes of this Division.

19. On the day on which this Division commences, there shall, by force of this section, be transferred to the Special Account of each bank established by it under this Division the amount then standing to the credit of that bank's Special Account under the National Security (War-time Banking Control) Regulations.

Transfer of certain moneys to Special Accounts.

20.—(1.) Each bank shall, not later than the twenty-eighth day in each month, lodge in the Special Account established by it under this Division such amount (if any) as the Commonwealth Bank, by notice in writing, directs.

Lodgments in Special Accounts.

(2.) The amount which any bank is so directed to lodge shall not be such that the amount to the credit of that bank's Special Account, after making the lodgment, exceeds the sum of—

- (a) the amount (if any) transferred to that bank's Special Account under the last preceding section; and

(b) the increase (if any) in that bank's assets since the commencement of this Division.

(3.) For the purposes of the last preceding sub-section, the increase in any bank's assets since the commencement of this Division means the amount by which the average of its total assets in Australia as at the close of business on each Monday (or such other day as is prescribed) in the month preceding the month in which the lodgment is to be made exceeds the average of its total assets (if any) in Australia as at the close of business on each Monday in the last month before the commencement of this Division.

(4.) If any bank fails to comply with the provisions of sub-section (1.) of this section, it shall be guilty of an offence, and shall, on conviction, be liable, for each day during which the failure continues, to a fixed penalty at the rate of Eight pounds per centum per annum of the amount which it has failed to lodge as required by sub-section (1.) of this section.

(5.) In this section, "month" means the period commencing on the first day of any month and ending on the last day of that month.

Withdrawals  
from Special  
Accounts.

**21.**—(1.) Except with the consent of the Commonwealth Bank, a bank shall not be entitled to withdraw any sum from the Special Account established by it under this Division.

(2.) The grant of consent by the Commonwealth Bank under the last preceding sub-section shall be in the discretion of the Commonwealth Bank, which may withhold consent or grant consent either unconditionally or subject to such conditions as the Commonwealth Bank determines.

(3.) Where any consent under sub-section (1.) of this section is granted subject to conditions, the bank to which the consent is granted shall comply with those conditions.

Penalty: One thousand pounds for each day during which the contravention continues.

Interest to be  
paid on  
Special  
Accounts

**22.** The Commonwealth Bank shall pay interest, at half-yearly intervals, to each bank on the daily balance of that bank's Special Account at a rate, not exceeding Seventeen shillings and sixpence per centum per annum, determined from time to time by the Commonwealth Bank with the approval of the Treasurer.

#### *Division 4.—Mobilization of Foreign Currency.*

Transfer of  
foreign currency  
to Common-  
wealth Bank

**23.**—(1.) The Commonwealth Bank may, from time to time, by notice in writing, require each bank to transfer to the Commonwealth Bank an amount of sterling equivalent to such proportion as is specified in the notice of that bank's excess receipts of foreign currency as at the close of business on a date specified in the notice, not being more than twenty-one days before the date on which the notice is given.

(2.) The proportion specified in any notice under the last preceding sub-section shall be the same in respect of each bank.

(3.) Where, as at the close of business on a date specified in a notice under sub-section (1.) of this section, a bank has not transferred

an amount of sterling which it has been required to transfer in pursuance of any previous notice under that sub-section, the excess receipts of foreign currency to which that amount of sterling is equivalent shall not, for the purpose of calculating the amount of sterling required to be transferred in pursuance of the first-mentioned notice, be taken into account as part of the excess receipts of foreign currency of that bank.

(4.) Each bank shall comply with the requirements of any notice under sub-section (1.) of this section within seven days after the receipt of the notice by the bank or within such further period as is specified by the Commonwealth Bank.

Penalty: One thousand pounds for each day during which the contravention continues.

(5.) A bank shall be deemed to have complied with the requirements of any notice under sub-section (1.) of this section if it transfers to the Commonwealth Bank an amount of sterling equivalent to the specified proportion of that bank's excess receipts of foreign currency, as shown in that bank's books of account, as at the close of business on the date in question.

(6.) Where any bank's assets outside Australia attributable to, or acquired by virtue of, its Australian business include foreign currency which is not freely convertible into sterling, the Commonwealth Bank shall make such adjustment in the amount of sterling required to be transferred by that bank to the Commonwealth Bank under this section as appears to the Commonwealth Bank to be necessary in the circumstances.

24. The Commonwealth Bank shall pay to any bank transferring any sterling in compliance with a notice under the last preceding section, such amount in Australian currency as is agreed upon between the Commonwealth Bank and the bank transferring the sterling or, in default of agreement, as is determined in an action for compensation by that bank against the Commonwealth Bank.

Payment for transferred foreign currency

25. The Commonwealth Bank may sell foreign currency to a bank—

Sale of foreign currency by Commonwealth Bank

- (a) where the Commonwealth Bank is satisfied that that bank has complied with the provisions of this Division and is likely to suffer a shortage of foreign currency; or
- (b) if the Commonwealth Bank considers that, for any other reason, it is desirable to do so.

26. In this Division—

Interpretation.

“excess receipts of foreign currency”, in relation to any bank as at any date, means the amount by which the amount of that bank's surplus foreign currency as at that date exceeds the amount of its surplus foreign currency as at the date of commencement of this Division;

“sterling” means currency which is legal tender in the United Kingdom;



“surplus foreign currency”, in relation to any bank, means the amount by which the amount of that bank’s assets outside Australia attributable to, or acquired by virtue of, its Australian business exceeds the amount of its liabilities outside Australia attributable to, or incurred by virtue of, its Australian business.

*Division 5.—Advances and Investments.*

Advances.

27.—(1.) Where the Commonwealth Bank is satisfied that it is necessary or expedient to do so in the public interest, the Commonwealth Bank may determine the policy in relation to advances to be followed by banks and each bank shall follow the policy so determined.

Penalty: One thousand pounds.

(2.) Without limiting the generality of the last preceding subsection, the Commonwealth Bank may give directions as to the classes of purposes for which advances may or may not be made by banks and each bank shall comply with any directions so given.

Penalty: One thousand pounds.

(3.) Nothing in this section shall—

- (a) authorize the Commonwealth Bank to make any determination or give any direction with respect to an advance made, or proposed to be made, to any particular person; or
- (b) affect the validity of any transaction entered into in relation to an advance or affect the right of a bank to recover any advance or enforce any security given in respect of an advance.

Limitation on purchase of securities.

28. A bank specified in Part I. of the First Schedule shall not, except with the consent in writing of the Commonwealth Bank, purchase or subscribe to—

- (a) securities of the Commonwealth or of a State, or of any authority of the Commonwealth or of a State;
- (b) securities of any local governing body in Australia; or
- (c) securities listed on a Stock Exchange in Australia.

Penalty: One thousand pounds.

**PART III.—FOREIGN EXCHANGE.**

Exchange control.

29.—(1.) Where the Governor-General is satisfied that it is expedient so to do, for the protection of the currency or of the public credit of the Commonwealth, or in order to conserve, in the national interest, the foreign exchange resources of the Commonwealth, he may make regulations, not inconsistent with this Act, making provision for and in relation to the control of foreign exchange and, in particular, but without limiting the generality of the foregoing, for or in relation to—

- (a) the buying, borrowing, selling, lending or exchanging of foreign currency, including the fixing of rates of exchange;
- (b) any dealing or transaction having the effect of a purchase, borrowing, sale, loan or exchange of foreign currency;

- (c) the taking or sending out of Australia of gold, Australian currency or foreign currency ;
- (d) requiring any person who has power to sell, or to procure the sale of, any foreign currency to sell, or procure the sale of, that foreign currency as prescribed ;
- (e) the taking, sending or transfer of any securities to a place outside Australia, including the transfer of securities from a register in Australia to a register outside Australia ;
- (f) the prohibition of the importation or exportation of goods unless a licence under the regulations to import or export the goods is in force ;
- (g) the terms and conditions to which such licences may be subject ; and
- (h) prescribing penalties not exceeding a fine of Five thousand pounds or imprisonment for a period not exceeding five years for any offence against the regulations made under this section.

(2.) In this section—

“ Australian currency ” includes notes, coins, postal notes, money orders, bills of exchange, promissory notes, drafts, letters of credit and travellers’ cheques, payable or expressed in Australian money, and also includes rights, and instruments of title, to Australian money ;

“ foreign currency ” includes notes, coins, postal notes, money orders, bills of exchange, promissory notes, drafts, letters of credit and ‘travellers’ cheques, payable or expressed otherwise than in Australian money, and also includes rights, and instruments of title, to money other than Australian money ;

“ securities ” includes shares, stock, bonds, debentures, debenture stock, Treasury Bills, and units or sub-units of a unit trust, and also includes deposit receipts in respect of the deposit of securities and documents of title to securities.

#### PART IV.—GOLD.

**30.**—(1.) This Part shall not be in operation except as provided in this section.

Operation  
of Part.

(2.) Where the Governor-General is satisfied that it is expedient so to do, for the protection of the currency or of the public credit of the Commonwealth, he may, by Proclamation, declare that this Part, or such of the provisions of this Part as are specified in the Proclamation, shall come into operation, and this Part, or the provisions so specified, shall thereupon come into operation.

(3.) Where the Governor-General is satisfied that it is no longer expedient, for the protection of the currency or of the public credit of the Commonwealth, that this Part, or any of the provisions of this Part, should remain in operation, the Governor-General may, by Proclamation, declare that this Part, or such of the provisions of this

Part as are specified in the Proclamation, shall cease to be in operation, and thereupon this Part, or the provisions so specified, shall cease to be in operation.

Transfer of  
gold out  
of Australia

**31.** A person shall not, except with the consent in writing of the Commonwealth Bank, take or send any gold out of Australia.

Penalty: One thousand pounds or imprisonment for five years.

Delivery of  
gold.

**32.—(1.)** Subject to this Part, every person who has any gold in his possession or under his control, not being—

(a) gold coins the total value of the gold content of which does not exceed the prescribed amount; or

(b) gold lawfully in the possession of that person for the purpose of being worked or used in manufacture for professional or trade purposes,

shall deliver the gold to the Commonwealth Bank, or as prescribed, within one month after the gold comes into his possession or under his control.

Penalty: One thousand pounds or imprisonment for five years.

(2.) In addition to any other punishment, a court may, if it thinks fit, order the forfeiture of any gold in respect of which an offence against this section has been committed.

Vesting of  
gold delivered

**33.** All gold delivered in pursuance of the last preceding section shall thereupon vest in the Commonwealth Bank absolutely, free from any mortgage, charge, lien, trust, or other interest in or affecting the gold, and the Commonwealth Bank shall pay for the gold, to the person delivering the gold, on behalf of all persons having any interest in the gold, an amount determined in accordance with the next succeeding section and the Commonwealth Bank shall not be under any liability to any other person claiming any interest in the gold.

Payment for  
gold

**34.** The amount to be paid for any gold delivered in pursuance of section thirty-two of this Act shall be an amount determined in accordance with such price as is fixed and published by the Commonwealth Bank or, at the option of the person delivering the gold, such amount as is determined in an action for compensation against the Commonwealth Bank.

Limitation of  
sale and  
purchase of  
gold.

**35.—(1.)** Subject to this Part—

(a) a person shall not sell or otherwise dispose of gold to any person other than the Commonwealth Bank or a person authorized in writing by the Commonwealth Bank to purchase gold; and

(b) a person, other than the Commonwealth Bank or a person so authorized, shall not buy gold from any person.

(2.) A person may buy gold from the Commonwealth Bank or from a person authorized in writing by the Commonwealth Bank to sell gold, and the Commonwealth Bank or a person so authorized may sell gold to any person, for the purpose of its being worked or used in manufacture by the purchaser for professional or trade purposes.

(3.) A person authorized by the Commonwealth Bank under this section shall comply with such directions relating to gold as are given to him by the Commonwealth Bank.

Penalty, for any offence against this section : Five hundred pounds or imprisonment for two years.

36. A person shall not work or use in manufacture any gold, not being gold lawfully in his possession for the purpose of being worked or used in manufacture for professional or trade purposes. Limitation on working of gold.

Penalty : Five hundred pounds or imprisonment for two years.

37.—(1.) This Part shall not apply to wrought gold, not being wrought gold worked or manufactured in contravention of this Part. Application of Part.

(2.) In this section, “wrought gold” means gold and gold alloys which on view have apparently been worked or manufactured for professional or trade purposes and includes the waste products arising from the working or manufacturing of gold and gold alloys for professional or trade purposes.

38. The Commonwealth Bank may, by instrument in writing, and either wholly or to the extent specified in the instrument, exempt any person from the application of the whole or any of the provisions of this Part and, so long as the exemption continues, that person shall be exempt accordingly. Exemptions.

#### PART V.—INTEREST RATES.

39.—(1.) The Commonwealth Bank may, with the approval of the Treasurer, make regulations— Control of interest rates.

- (a) making provision for and in relation to the control of rates of interest payable to or by banks, or to or by other persons in the course of any banking business carried on by them ;
- (b) making provision for and in relation to the control of rates of discount chargeable by banks, or by other persons in the course of any banking business carried on by them ; and
- (c) providing that interest shall not be payable in respect of—
  - (i) any amount deposited with a bank, or with any other person in the course of any banking business carried on by him, and repayable on demand or after the expiration of a period specified in the regulations ; or
  - (ii) so much of the amount to the credit of a deposit account in a savings bank as exceeds an amount specified in the regulations.

(2.) Any person who contravenes or fails to comply with any regulation under this section shall be guilty of an offence punishable—

- (a) if the offence is prosecuted summarily—by a fine not exceeding One hundred pounds or imprisonment for a term not exceeding six months ; or
- (b) if the offence is prosecuted upon indictment—by a fine not exceeding Five thousand pounds or imprisonment for a term not exceeding five years.

## PART VI.—STATISTICS.

Balance-sheets  
and statements  
to be furnished  
by banks.

40. Each bank specified in Part I. of the First Schedule shall prepare—

- (a) a balance-sheet, in accordance with Form A, as at the close of business on a date in each year prescribed in respect of that bank ;
- (b) a statement of its profit and loss, in accordance with Form B, in respect of each year ending on that date ;
- (c) a statement of its income and expenditure in respect of its Australian business, in accordance with Form C, in respect of each year ending on that date ;
- (d) a statement of liabilities and assets within Australia in accordance with Form D ;
- (e) a statement of debits to customers' accounts in accordance with Form E ;
- (f) a statement of its foreign currency position in accordance with Form F ;
- (g) a statement of loans, advances and bills discounted, classified according to—
  - (i) the purpose of the loan, advance or discounting ;
  - (ii) the rate of interest or discount chargeable ; and
  - (iii) the industry of the borrower or person for whom the bill is discounted,
 in accordance with the prescribed form ;
- (h) a statement of deposits, classified according to—
  - (i) the term of the deposit ;
  - (ii) the rate of interest payable ;
  - (iii) the industry of the depositor,
 in accordance with the prescribed form ; and
- (i) such additional statements as are prescribed.

Directions  
with respect  
to Forms.

41. Each balance-sheet and statement referred to in the last preceding section shall be prepared in accordance with the directions specified in the balance-sheet or statement, and in accordance with such instructions (not inconsistent with those directions) as are given by the Commonwealth Bank, and copies of the balance-sheet or statement shall be delivered to the Commonwealth Statistician or to the Commonwealth Bank, or to both, in accordance with the directions specified in the balance-sheet or statement.

Variation  
of Forms.

42. The regulations may provide for the variation of any Form in the Second Schedule, including directions specified therein, but so that no change shall be made in the essential nature of the Form.

Verification  
of balance-  
sheets and  
statements.

43. Every balance-sheet and statement prepared under this Part shall be verified by a statutory declaration made by a senior officer of the bank concerned.

Certain  
statements  
to be published  
in Gazette.

44.—(1.) From the balance-sheets in accordance with Form A and the statements of profit and loss in accordance with Form B delivered to the Commonwealth Statistician, the Commonwealth Statistician

shall prepare, and shall publish in the *Gazette*, a statement showing, in respect of each bank, the liabilities, assets and profit and loss of that bank.

(2.) From the statements of liabilities and assets within Australia in accordance with Form D delivered to the Commonwealth Statistician, the Commonwealth Statistician shall prepare, and shall publish in the *Gazette*, a statement, in respect of each bank, of the average of that bank's liabilities and assets within Australia for each month.

45. From the information contained in the balance-sheets and statements delivered to him in pursuance of this Part, the Commonwealth Statistician shall prepare and publish such other statements as the Treasurer directs, but no such statement shall be in such a form as to disclose the information supplied by any individual bank, except in so far as that information is contained in any balance-sheet or statement referred to in the last preceding section.

Publication  
of other  
statements.

46. A bank shall not contravene or fail to comply with any of the provisions of this Part which are applicable to it.

Penalty.

Penalty: Five hundred pounds.

47. The Treasurer may, by instrument in writing, exempt any bank from the obligation to prepare and deliver any balance-sheet or statement in accordance with a Form in the Second Schedule which is specified in the instrument and, so long as the exemption continues, that bank shall be exempt accordingly.

Exemptions.

#### PART VII.—MISCELLANEOUS.

48.—(1.) Except with the consent in writing of the Treasurer, a bank shall not conduct any banking business for a State or for any authority of a State, including a local governing authority.

Banks not to  
conduct certain  
business.

Penalty: One thousand pounds.

(2.) Any consent of the Treasurer under this section may apply to all such business conducted by any particular bank or at a particular office of a bank, or to the business of any particular State or authority conducted by any particular bank or at a particular office of a bank.

(3.) Until a date fixed by the Treasurer by notice published in the *Gazette*, this section shall apply only in relation to banking business conducted for a State or for an authority of a State, including a local governing authority, specified by the Treasurer by notice in writing, and, if an office of a bank is specified in the notice, at the office so specified.

49.—(1.) The Auditor-General shall investigate periodically the books, accounts and transactions of each bank and shall furnish to the Treasurer and to the Commonwealth Bank such reports upon the affairs of each bank as the Treasurer directs.

Reports by  
Auditor-  
General.

(2.) The Treasurer may at any time direct the Auditor-General to make an investigation of the books, accounts and transactions of a bank specified by the Treasurer and to furnish to the Treasurer and to the Commonwealth Bank such reports upon the affairs of that bank as the Treasurer directs and the Auditor-General shall make an investigation and furnish reports accordingly.

(3.) Nothing in this section shall authorize the Auditor-General to furnish a report with respect to the affairs of any individual customer of a bank.

(4.) For the purpose of any investigation under this section, a bank shall afford the Auditor-General access to its books, accounts and documents and shall give to the Auditor-General such information and facilities as he requires to conduct the investigation.

Penalty: One thousand pounds for each day during which the contravention continues.

Supply of  
information.

**50.**—(1.) Every bank shall furnish to the Commonwealth Bank such information in respect of its business as the Commonwealth Bank directs, and every person who carries on any banking business in Australia shall furnish to the Commonwealth Bank such information in connexion with his banking business as the Commonwealth Bank directs.

Penalty: One thousand pounds.

(2.) A direction under this section shall not require information to be furnished with respect to the affairs of any individual customer.

Amalgamation,  
&c., requires  
consent of  
Treasurer.

**51.**—(1.) Except with the prior consent in writing of the Treasurer, after the receipt by him of a recommendation of the Commonwealth Bank, a bank shall not—

(a) enter into any arrangement or agreement for any sale or disposal of its business by amalgamation or otherwise, or for the carrying on of business in partnership with any other bank; or

(b) effect any reconstruction of the bank.

Penalty: One thousand pounds.

(2.) Any such arrangement, agreement or reconstruction, and any such sale or disposal in pursuance of any such arrangement or agreement, entered into without the prior consent of the Treasurer shall be void and of no effect.

Settlement of  
balances  
between banks.

**52.** Each bank specified in Part I. of the First Schedule shall settle, by means of cheques drawn on and paid into the Commonwealth Bank, the balances arising between itself and any other bank so specified, out of any customary general clearance effected in any capital city in Australia.

Penalty: One hundred pounds.

Banks may be  
directed to  
comply with  
Act.

**53.**—(1.) Where any bank is convicted of an offence against this Act or the regulations, a Full Court of the High Court constituted by not less than three Justices may, upon the application of the Attorney-General, by motion, direct compliance by the bank, within a period specified by the Court, with the provisions of this Act or the regulations with which the bank has failed to comply.

(2.) In default of compliance by the bank within the specified period with any direction given by the Court in pursuance of the last preceding sub-section, the Court may authorize the Commonwealth Bank to assume control of, and to carry on, the business of that bank.

(3.) The provisions of sections thirteen and fourteen of this Act shall, so far as applicable, have effect where the Commonwealth Bank has assumed control of the business of a bank in pursuance of the last preceding sub-section.

(4.) Where the Commonwealth Bank has assumed control of the business of a bank in pursuance of sub-section (2.) of this section, the Commonwealth Bank shall remain in control of, and shall continue to carry on, the business of that bank until such time as the High Court is satisfied that it is no longer necessary for the Commonwealth Bank to remain in control of the business of that bank and authorizes the Commonwealth Bank to cease to control the business of that bank.

**54.**—(1.) A person or body of persons, not being a bank, shall not assume or use, in relation to the business, or any part of the business, carried on by that person or body, the word “bank”, “banker” or “banking” or any word of a like import. Restriction of use of word “bank”, &c.

Penalty: One hundred pounds for each day during which the contravention continues.

(2.) Nothing in this section shall be deemed to prohibit the use, by any person or body of persons, of any word in use by that person or body immediately prior to the commencement of this Part—

(a) for a period of six months after the commencement of this Part; or

(b) where the Treasurer, in writing, authorizes the continued use of the word.

**55.**—(1.) A person or body of persons (not being a bank specified in Part II. of the First Schedule) shall not assume or use, in relation to the business, or any part of the business, carried on by that person or body, the words “savings bank” or any words of a like import. Restriction of use of words “savings bank”.

Penalty: One hundred pounds for each day during which the contravention continues.

(2.) Nothing in this section shall be deemed to prohibit the use, by any person or body of persons, of any words in use by that person or body immediately prior to the commencement of this Part—

(a) for a period of six months after the commencement of this Part; or

(b) where the Treasurer, in writing, authorizes the continued use of the words.

**56.**—(1.) Every bank specified in Part I. of the First Schedule, and the Commonwealth Bank, shall, within three months after the thirty-first day of December in each year, deliver to the Treasurer a statement of all unclaimed moneys. Unclaimed moneys.

(2.) The statement shall set forth the name of each shareholder, depositor or creditor, his last-known address, the amount due, the office or branch of the bank at which the last transaction took place, and the date thereof, and, if the shareholder, depositor or creditor is known to the bank to be dead, the statement shall show the names and addresses of his legal representatives so far as known to the bank.



(3.) The total amount shown in the statement shall be—

- (a) paid by the bank to the Treasurer at the time of the delivery of the statement ;
- (b) credited by the Treasurer to the Trust Fund established by the *Audit Act* 1901–1934 ;
- (c) available during six years after payment to the Treasurer for payment to the persons whom the bank was liable to pay or to the respective administrators, executors or assigns of those persons ; and
- (d) paid thereafter to the Consolidated Revenue Fund.

(4.) After the payment to the Consolidated Revenue Fund of any unclaimed moneys, the Treasurer may pay to any person to whom any amount of such moneys was due by the bank the amount so due.

(5.) Upon payment to the Treasurer of any amount as required by this section, the bank shall be held to be discharged from further liability for the amount so paid.

(6.) The Consolidated Revenue Fund is hereby appropriated for the purposes of, and to the extent necessary to give effect to, subsection (4.) of this section.

(7.) Particulars of every sum not less than Ten pounds included in the statement mentioned in this section shall be published by the Treasurer in the *Gazette*.

(8.) A bank shall not contravene or fail to comply with any provision of this section which is applicable to it.

Penalty : One hundred pounds.

(9.) For the purposes of this section, “unclaimed moneys” means all principal, interest, dividends, bonuses, profits and sums of money whatsoever which are legally payable by a bank but in respect of which the time within which proceedings may be taken for the recovery thereof has expired, and includes moneys to the credit of an account which has not been operated on, either by deposit or withdrawal, for a period of not less than seven years.

Penalties on executive officers.

57. Where any offence against this Act or the regulations has been committed by any body corporate, the chief executive officer in Australia of the body corporate shall be liable to the penalty provided in respect of that offence, but nothing in this section shall affect the liability of the body corporate.

Treasurer to consent to proceedings for offences.

58. Proceedings for an offence against this Act or the regulations shall not be instituted without the consent in writing of the Treasurer.

59. The production of any certificate purporting to have been given by the Governor or Deputy Governor of the Commonwealth Bank certifying to any matter relating to the failure of any person to comply with any of the provisions of this Act or the regulations shall in all courts be *prima facie* evidence that those matters are as so certified.

Certificate as  
to certain facts.

60. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for giving effect to this Act and in particular for prescribing penalties not exceeding One hundred pounds for any offence against the regulations.

Regulations.

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## THE SCHEDULES.

### FIRST SCHEDULE

Section 8.

#### PART I.

The Ballarat Banking Company Limited.  
 The Bank of Adelaide.  
 The Bank of Australasia.  
 Bank of China.  
 Bank of New South Wales.  
 Bank of New Zealand.  
 The Brisbane Permanent Building and Banking Company Limited.  
 The Commercial Bank of Australia Limited.  
 The Commercial Banking Company of Sydney Limited.  
 Comptoir National d'Escompte de Paris.  
 The English, Scottish and Australian Bank, Limited.  
 The National Bank of Australasia Limited.  
 The Queensland National Bank Limited.  
 The Union Bank of Australia Limited.

#### PART II.

The Hobart Savings Bank.  
 Launceston Bank for Savings.

THE SCHEDULES—*continued.*

## SECOND SCHEDULE.

## FORM A.

*Banking Act 1945.*

## BALANCE-SHEET

of the.....as at the close of business on.....

<i>Liabilities.</i>		<i>Assets.</i>	
	£ s. d.		£ s. d.
1. Authorized capital*	.. ..	1. Coin, bullion, notes and cash at bankers§	.. ..
2. Issued capital†	.. ..	2. Money at short call—	.. ..
3. Paid-up capital	.. ..	(a) London	.. ..
4. Reserve funds‡—	.. ..	(b) Elsewhere	.. ..
.....	.....	3. Special Account with Commonwealth Bank	.. ..
5. Final dividend proposed	.. ..	4. Cheques and bills of other banks and balances with and due from other banks	.. ..
6. Balance of profit and loss account	.. ..	5. Treasury bills—	.. ..
7. Total shareholders' funds	.. ..	(a) Australian Government securities;	.. ..
8. Interminable deposits or deposit stock—	.. ..	(b) Other Governments	.. ..
.....	.....	6. Public securities (excluding Treasury bills)¶—	.. ..
9. Deposits, bills payable and other liabilities including provisions for contingencies	.. ..	(a) Australian Government securities;	.. ..
10. Notes in circulation	.. ..	(b) Other Government securities;	.. ..
11. Balances due to other banks	.. ..	(c) Local and Semi-Governmental Authorities' securities..	.. ..
	.....	7. Bills receivable and remittances in transit	.. ..
	.....	8. Loans, advances and bills discounted (after deducting provisions for debts considered bad or doubtful)	.. ..
	.....	9. Bank premises, furniture and sites¶—	.. ..
	.....	10. All other assets	.. ..
Total	.. ..	Total	.. ..

\* Insert details of shares, including number, denomination, class and total.

† Insert details of shares issued, including number and amount, denomination and class, and amount paid up per share, and set out details of reserved liability (if any).

‡ State if used in the business or how otherwise used.

§ Include as cash at bankers only cash at central banks and London clearing banks but exclude Special Account with Commonwealth Bank.

¶ State basis of valuation, that is, cost price, market price or otherwise.

*Directions.*

1. Copies of this balance-sheet shall be delivered to the Commonwealth Statistician and to the Commonwealth Bank within six months after the date as at which the balance-sheet is prepared.

2.—(1.) If the balance-sheet includes any asset or liability (other than share capital or any reserve fund specifically set out therein) realizable or payable in any currency other than Australian currency, and the value of that asset or liability included in the balance-sheet is not the equivalent in Australian currency (calculated at a rate of exchange current on the date as at which the balance-sheet is prepared) of the value of that asset or liability in that other currency, the balance-sheet shall

THE SCHEDULES—*continued.*SECOND SCHEDULE—*continued.*FORM A—*continued.*

show what the effect on each relevant item of the balance-sheet would have been if the value of that asset or liability had been converted into Australian currency at such a rate of exchange.

(2.) The last preceding sub-paragraph shall not, so long as the Commonwealth Bank sells telegraphic transfers on New Zealand for not less than Ninety-nine pounds, and for not more than One hundred and one pounds, in Australian currency, for each One hundred pounds in New Zealand currency, apply in relation to any asset or liability realizable or payable in New Zealand currency.

## FORM B.

*Banking Act 1945.*

## STATEMENT OF PROFIT AND LOSS

of the ..... in respect of the year ended.....

£ s. d.	£ s. d.
1. To Expenses (including Directors' fees £.....) ..	1. By Discount and interest earned, net exchange, commissions and other items (including transfers from contingencies accounts), after deducting interest paid and accrued on deposits, rebate on bills current at balance date, amounts written off assets and losses on realization of assets and transfers to the credit of contingencies accounts (out of which accounts provisions for all bad and doubtful debts have been made) .. ..
2. To Income, Land and other Taxes .. ..	
3. To Balance, being net profit for the year carried down..	
Total .. ..	Total .. ..
4. To Transfer to Reserve Funds	2. By Net Balance brought forward .. ..
5. To Amounts written off Bank Premises .. ..	3. By Net Profit for the year
6. To Other Appropriations as follows :— ..... .....	
7. To Dividends (*) :— .. ..	
Interim paid £.....	
Final proposed payable £ .. ..	
8. To Balance carried forward..	
Total .. ..	Total .. ..

* Rate of dividend for year .. .. .	.....
Gross amount of dividends .. .. .	.....
Less British taxes payable by bank and recouped from shareholders .. .. .	.....
Net amount of dividends payable to shareholders .. .. .	.....

THE SCHEDULES—*continued.*SECOND SCHEDULE—*continued.*FORM B—*continued.**Directions.*

1. Copies of this statement shall be delivered to the Commonwealth Statistician and to the Commonwealth Bank within six months after the end of the year to which the statement relates.

2.—(1.) If the statement includes any credit earned or debit incurred in any currency other than Australian currency, and the value of that credit or debit included in the statement is not the equivalent in Australian currency (calculated at a rate of exchange current at some date during the year to which the statement relates) of the value of that credit or debit in that other currency, the statement shall show what the effect on each relevant item in the statement would have been if the value of that credit or debit had been converted into Australian currency at a rate of exchange current at some date during the year to which the statement relates.

(2.) The last preceding sub-paragraph shall not, so long as the Commonwealth Bank sells telegraphic transfers on New Zealand for not less than Ninety-nine pounds, and for not more than One hundred and one pounds, in Australian currency, for each One hundred pounds in New Zealand currency, apply in relation to any credit earned or debit incurred in New Zealand currency.

## FORM C.

*Banking Act 1945.*

STATEMENT OF INCOME AND EXPENDITURE IN RESPECT OF AUSTRALIAN BUSINESS of the.....in respect of the year ended.....

<i>Expenditure.</i>	£	<i>Income.</i>	£
1. Interest on deposits or deposit stock .. ..		1. Discount and interest—	
2. Directors' fees, salaries, wages and allowances .. ..		(a) on advances and bills discounted .. ..	
3. Contributions to Staff Provident Funds and pensions paid by bank .. ..		(b) on Australian Government securities (excluding Treasury Bills)	
4. Maintenance and repairs to premises, and expenditure on furniture and fittings ..		(c) on Australian Treasury Bills .. ..	
5. Rates of Local and Semi-Governmental Authorities		(d) on Special Account with Commonwealth Bank	
6. Other expenses of management .. ..		(e) other .. ..	
7. Land, pay-roll and other taxes allowable as deductions in ascertaining Commonwealth taxable income .. ..		2. Profit on overseas exchange transactions .. ..	
8. Bad debts and interest written off .. ..		3. Inland exchange .. ..	
9. Depreciation .. ..		4. Net earnings from commission, and charges for keeping current accounts ..	
10. Losses on realization of investments or other assets		5. Bad debt recoveries .. ..	
11. All other items .. ..		6. Interest recoveries .. ..	
12. Total Expenditure .. ..		7. Profits on realization or redemption of investments or other assets .. ..	
13. Australian Taxable Income for Commonwealth Purposes		8. Rents .. ..	
		9. All other items .. ..	
Total .. ..		Total .. ..	

THE SCHEDULES—*continued.*

SECOND SCHEDULE—*continued.*

FORM C—*continued.*

*Adjustments.*

	£		£
Items of expenditure not allowable for Commonwealth income tax purposes—		Australian taxable income for Commonwealth purposes as above .. .. .	
.....		Items of income exempt from Commonwealth taxation—	
.....		.....	
Items of assessable income not taken to profit and loss account—		.....	
.....		Items of expenditure allowable as deductions for taxation purposes but not charged to profit and loss account—	
.....		.....	
Total profit in respect of Australian business before deduction of Commonwealth income taxes and without allowance for depreciation of premises..		.....	
		.....	
		.....	
Total .. ..	_____	Total .. ..	_____
	=====		=====

*Directions.*

1. Copies of this statement shall be delivered to the Commonwealth Statistician and to the Commonwealth Bank within six months after the end of the year to which the statement relates.



THE SCHEDULES—*continued.*SECOND SCHEDULE—*continued.*FORM D—*continued.*

## PART II.

State or Territory.	Deposits not bearing interest.		Deposits bearing interest.			Total Deposits.	Loans, Advances and Bills discounted.	
	Aus- tralian Govern- ments.	Other.	Aus- tralian Govern- ments.	Other.			Aus- tralian Govern- ments.	Other.
				Current.	Fixed.			
	£	£	£	£	£	£	£	
New South Wales								
Victoria . . . . .								
Queensland . . . . .								
South Australia . . . . .								
Western Australia . . . . .								
Tasmania . . . . .								
Australian Capital Territory . . . . .								
Northern Territory . . . . .								
Papua and New Guinea . . . . .								
Other . . . . .								
<b>Total . . . . .</b>								

*Directions.*

1. This statement shall be prepared as at the close of business on Monday in each week.
2. Copies of this statement shall be delivered to the Commonwealth Statistician and to the Commonwealth Bank within fourteen days after the date as at which it is prepared.
3. Any accounts between the head office of the bank and a branch, or between different branches of the bank, shall not be included as liabilities or assets.
4. Contingent liabilities and assets shall not be included.



THE SCHEDULES—*continued.*SECOND SCHEDULE—*continued.*

FORM E.

*Banking Act 1945.*

## STATEMENT OF DEBITS TO CUSTOMERS' ACCOUNTS

within Australia by the..... during the week  
ended.....

State or Territory.	Metropolitan Area.*		Elsewhere.	Total.
	Australian Governments.†	Other.		
	£	£	£	£
New South Wales .. .. .				
Victoria .. .. .				
Queensland .. .. .				
South Australia .. .. .				
Western Australia .. .. .				
Tasmania .. .. .				
Australian Capital Territory .. .. .				
Northern Territory .. .. .				
Papua and New Guinea .. .. .				
Other .. .. .				
Total .. .. .				

\* The "free of exchange" area in capital cities.

† At the bank's city branches only.

*Directions.*

1. This statement shall be prepared as at the close of business on Monday in each week.

2. Copies of this statement shall be delivered to the Commonwealth Statistician and to the Commonwealth Bank within fourteen days after the date as at which it is prepared.

THE SCHEDULES—*continued.*SECOND SCHEDULE—*continued.*

## FORM F.

*Banking Act 1945.*

## STATEMENT OF FOREIGN CURRENCY POSITION

of the ..... as at the close of business on .....

£ Eng.

1. London Surplus as per London Office Books, excluding Surplus or  
Deficiency  
 Deficiency on New Zealand and Fiji Account .. .. .

£ Eng.

2. Excess of London Remittances over Drawings in transit as per Aus-  
London Drawings over Remittances in transit  
 tralian books .. .. .

£ Eng.

3. Balances (as per Australian books)—  
 (a) in New Zealand .. .. .  
 (b) in Fiji .. .. .  
 (c) in United States of America .. .. .  
 (d) in other overseas centres .. .. .

Total overseas funds held on Australian account other than  
 in London .. .. .

*Directions.*

1. This statement shall be prepared as at the close of business on Monday in each week.

2. Copies of this statement shall be delivered to the Commonwealth Statistician and to the Commonwealth Bank within fourteen days after the date as at which it is prepared.

3. The amounts shown in item 3 shall be converted to English currency at the ruling telegraphic transfer buying rate of exchange.

## SUPERANNUATION.

## No. 15 of 1945.

An Act to amend the *Superannuation Act 1922-1943.*

[Assented to 3rd August, 1945.]

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

1.—(1.) This Act may be cited as the *Superannuation Act 1945.*

(2.) The *Superannuation Act 1922-1943\** is in this Act referred to as the Principal Act.

Short title  
and citation.

\* Act No. 33, 1922, as amended by No. 45, 1924; No. 22, 1930; No. 10, 1931; No. 45, 1934; No. 28, 1937; No. 53, 1942; and No. 18, 1943.