

BANKING (TRANSITIONAL PROVISIONS).

No. 7 of 1959.

An Act to enact certain Transitional Provisions consequential upon the enactment of the *Reserve Bank Act* 1959, the *Commonwealth Banks Act* 1959 and the *Banking Act* 1959.

[Assented to 23rd April, 1959.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Banking (Transitional Provisions) Act* 1959. Short title.

2.—(1.) Parts I., IV. and VI. of this Act shall come into operation on the day on which this Act receives the Royal Assent. Commencement.

(2.) The remaining Parts of this Act shall come into operation on the day on which the *Reserve Bank Act* 1959 comes into operation.

Parts.

3. This Act is divided into Parts, as follows:—

Part I.—Preliminary (Sections 1–4).

Part II.—The Reserve Bank of Australia (Sections 5–9).

Part III.—The Commonwealth Development Bank of Australia (Section 10).

Part IV.—Preparatory Arrangements (Sections 11–12).

Part V.—Staff (Sections 13–23).

Part VI.—Statutory Reserve Deposits (Sections 24–28).

Part VII.—Miscellaneous (Sections 29–31).

Application to Territories.

4. This Act extends to all the Territories of the Commonwealth.

PART II.—THE RESERVE BANK OF AUSTRALIA.

Definition.

5. In this Part, “the commencing date” means the date on which this Part comes into operation.

Reserve Bank Board.

6.—(1.) The members of the Commonwealth Bank Board appointed under paragraph (d) of sub-section (1.) of section thirteen of the *Commonwealth Bank Act* 1945–1953 and holding office immediately before the commencing date shall, subject to the *Reserve Bank Act* 1959, continue to hold office, as members of the Reserve Bank Board, but otherwise in accordance with their respective periods of appointment, as if they had been appointed under paragraph (d) of sub-section (1.) of section fourteen of the *Reserve Bank Act* 1959.

(2.) Where, by reason of the number of members of the Commonwealth Bank Board who, by virtue of the last preceding sub-section, continue to hold office as members of the Reserve Bank Board being less than seven, there is a vacancy in the membership of the Reserve Bank Board on the commencing date, a person appointed under paragraph (d) of sub-section (1.) of section fourteen of the *Reserve Bank Act* 1959 (not being an officer of the Reserve Bank Service or of the Public Service of the Commonwealth) to fill the vacancy may, notwithstanding sub-section (4.) of that section, be appointed for such period as the Governor-General determines.

Governor and Deputy Governor.

7. The persons holding office as Governor and Deputy Governor of the Commonwealth Bank of Australia immediately before the commencing date shall, subject to the *Reserve Bank Act* 1959, continue to hold office, as Governor and Deputy Governor of the Reserve Bank of Australia, respectively, for the remainder of their respective periods of appointment.

Note Issue Department.

8. The Note Issue Department of the Commonwealth Bank of Australia shall continue as the Note Issue Department of the Reserve Bank of Australia.

9. The Rural Credits Department of the Commonwealth Bank of Australia shall continue as the Rural Credits Department of the Reserve Bank of Australia. **Rural Credits Department.**

PART III.—THE COMMONWEALTH DEVELOPMENT BANK
OF AUSTRALIA.

10.—(1.) In this section, unless the contrary intention appears— **Transitional provisions.**

- “assets” means property of every kind, and, without limiting the generality of the foregoing, includes—
 - (a) choses in action; and
 - (b) rights, interests and claims of every kind in or to property, whether arising under or by virtue of an instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing;
- “assets of the Commonwealth Bank to which this section applies” means assets of the Commonwealth Bank subsisting immediately before the commencing date and relating to the business that was carried on before that date by the Commonwealth Bank in its Mortgage Bank Department or Industrial Finance Department;
- “authorized officer” means the Managing Director of the Commonwealth Banking Corporation, the Deputy Managing Director of the Commonwealth Banking Corporation, the General Manager of the Development Bank or an officer of the Commonwealth Banking Corporation Service;
- “bill of exchange” includes promissory note, cheque, bank draft, bank cheque and order;
- “instrument” includes a contract or agreement (whether express or implied and whether made orally or in writing), bond, authority, order, power of attorney, guarantee, mortgage, transfer, conveyance or other assurance, charge, lien, bill of lading, bill of exchange, letter of credit and security;
- “instrument to which this section applies” means an instrument—
 - (a) to which the Commonwealth Bank is a party;
 - (b) which was given to or in favour of the Commonwealth Bank;
 - (c) in which a reference is made to the Commonwealth Bank; or
 - (d) under which any money is or may become payable, or any other property is to be, or may become liable to be, transferred, conveyed or assigned, to or by the Commonwealth Bank,

being an instrument subsisting immediately before the commencing date and relating to the business which was carried on before that date by the Commonwealth Bank in its Mortgage Bank Department or Industrial Finance Department;

“liabilities” means liabilities of every kind, and, without limiting the generality of the foregoing, includes obligations of every kind, whether arising under or by virtue of an instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing;

“liabilities of the Commonwealth Bank to which this section applies” means liabilities of the Commonwealth Bank subsisting immediately before the commencing date and relating to the business which was carried on before that date by the Commonwealth Bank in its Mortgage Bank Department or Industrial Finance Department;

“the commencing date” means the date on which this Part comes into operation;

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

“the Development Bank” means the Commonwealth Development Bank of Australia;

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

(2.) The business that was carried on, immediately before the commencing date, by the Commonwealth Bank in its Mortgage Bank Department or Industrial Finance Department shall, on and after that date, be carried on by the Development Bank.

(3.) Upon the commencing date—

(a) the assets of the Commonwealth Bank to which this section applies shall, by force of this section, cease to be assets of the Commonwealth Bank and shall become assets of the Development Bank; and

(b) the liabilities of the Commonwealth Bank to which this section applies shall, by force of this section, cease to be liabilities of the Commonwealth Bank and shall become liabilities of the Development Bank.

(4.) An instrument to which this section applies shall, by force of this section, continue in full force and effect but, in its operation in relation to acts, transactions, matters or things done, entered into or occurring on or after the commencing date, has effect as if a reference in the instrument to the Commonwealth Bank or to the Mortgage Bank Department or Industrial Finance Department of the Commonwealth Bank were a reference to the Development Bank.

(5.) An authorized officer may, by writing under his hand, certify that an asset, a liability or an instrument specified or described in the certificate is an asset referred to in paragraph (a) of sub-section (3.) of this section, a liability referred to in paragraph (b) of that sub-section or an instrument referred to in the last preceding sub-section, as the case may be, and such a certificate is, in all courts and for all purposes, evidence of the matters stated in the certificate.

(6.) An instrument or document which an authorized officer certifies to have been made, executed or given by reason of, or for a purpose connected with or arising out of, the operation of this section is not liable to stamp duty or other tax under a law of the Commonwealth or of a State or Territory of the Commonwealth.

(7.) Judicial notice shall be taken of the signature of an authorized officer appearing on a certificate under either of the last two preceding sub-sections and of the fact that the person by whom the certificate purports to have been signed is an authorized officer.

(8.) The payment by the Development Bank of a bill of exchange drawn on, or made payable at, the Commonwealth Bank has, by force of this section, the same effect for all purposes as that payment would have had if the bill of exchange had been drawn on, or made payable at, the Development Bank.

PART IV.—PREPARATORY ARRANGEMENTS.

11.—(1.) At any time after this Part comes into operation, but before the commencement of the *Commonwealth Banks Act* 1959, appointments may be made under that Act for the purposes of—

- (a) paragraph (d) of sub-section (1.) of section fourteen of that Act;
- (b) sub-section (1.) of section eighteen of that Act;
- (c) sub-section (2.) of section twenty of that Act;
- (d) sub-section (1.) of section twenty-five of that Act;
- (e) sub-section (1.) of section thirty-three of that Act;
- (f) sub-section (1.) of section forty-five of that Act; and
- (g) sub-section (1.) of section seventy-eight of that Act,

as if that Act were in operation but, subject to this section, no such appointment has effect until the commencement of that Act.

(2.) For the purposes of an appointment to be made by virtue of the last preceding sub-section, being an appointment for the purposes of a provision of the *Commonwealth Banks Act* 1959 referred to in paragraph (c), (e), (f) or (g) of that sub-section, consultation with, or a recommendation by, all or a majority of the persons specified in the next succeeding sub-section shall be deemed to be consultation with, or a recommendation by, the Commonwealth Banking Corporation Board.

(3.) The persons referred to in the last preceding sub-section are the Secretary to the Department of the Treasury and the persons who would be the other members of the Commonwealth Banking Corporation Board if appointments made by virtue of sub-section (1.) of this section for the purposes of the provisions of the *Commonwealth Banks Act* 1959 referred to in paragraphs (a) and (d) of that sub-section had effect immediately.

(4.) A person appointed by virtue of sub-section (1.) of this section—

- (a) shall take such action as is appropriate having regard to the office to which he has been appointed to facilitate the coming into operation of the *Commonwealth Banks Act* 1959 ;
- (b) shall be paid such remuneration (if any) in respect of the period from the time of his appointment to the commencement of the *Commonwealth Banks Act* 1959 as the Governor-General determines;
- (c) shall not be deemed, as a consequence of his having received remuneration under the last preceding paragraph, to have vacated any office held by him under the *Commonwealth Bank Act* 1945–1953; and
- (d) if he was an officer of the Commonwealth Bank Service under the *Commonwealth Bank Act* 1945–1953 at the time his appointment was made, shall be deemed, for the purposes of section one hundred and twelve of the *Commonwealth Banks Act* 1959, to have become at that time the holder of the office to which he has been appointed.

Payment of
preliminary
expenses.

12.—(1.) The expenses necessary for the purpose of bringing the *Commonwealth Banks Act* 1959 into operation immediately upon its commencement (including any remuneration referred to in paragraph (b) of sub-section (4.) of the last preceding section) shall be paid by the Commonwealth Bank of Australia.

(2.) After the commencement of the *Commonwealth Banks Act* 1959, the Commonwealth Banking Corporation shall pay to the Reserve Bank of Australia an amount equal to the expenses paid under the last preceding sub-section.

PART V.—STAFF.

Interpretation.

13.—(1.) In this Part, unless the contrary intention appears—

“actuary” means a Fellow or Associate of the Institute of Actuaries (London) or of the Faculty of Actuaries (Edinburgh);

“the commencing date” means the date on which this Part comes into operation;

- “ the Governor ” means the Governor of the Reserve Bank;
 “ the Managing Director ” means the Managing Director of
 the Commonwealth Banking Corporation;
 “ the Reserve Bank ” means the Reserve Bank of Australia.

(2.) A reference in this Part to a person who, immediately before the commencing date, was an officer of the Commonwealth Bank Service shall be read as not including a reference to a person who ceased to be such an officer on the day immediately preceding that date by reason of his retirement, resignation or dismissal.

14. Except where otherwise provided, the provisions of this Part have effect notwithstanding anything contained in Part VII. of the *Reserve Bank Act 1959* or in Part VIII. of the *Commonwealth Banks Act 1959*.

This Part to have effect notwithstanding provisions in certain other Acts.

15. On the commencing date, the Governor and the Managing Director—

Allocation of officers of the Commonwealth Bank Service.

- (a) shall jointly determine to which of the Services, that is to say, the Reserve Bank Service and the Commonwealth Banking Corporation Service, it is appropriate to appoint persons who, immediately before that date, were officers of the Commonwealth Bank Service; and
 (b) where they determine that it is appropriate for such a person to be appointed to the Reserve Bank Service, shall make a declaration in writing to that effect.

16. The Reserve Bank shall, on the commencing date, appoint as an officer of the Reserve Bank Service each person in respect of whom a declaration is made under paragraph (b) of the last preceding section.

Appointment to Reserve Bank Service.

17. A person who, immediately before the commencing date, was an officer of the Commonwealth Bank Service, not being a person appointed on that date to the Reserve Bank Service under the last preceding section, shall be deemed to have been appointed on that date as an officer of the Commonwealth Banking Corporation Service.

Appointment to Commonwealth Banking Corporation Service.

18.—(1.) At any time within three months after the commencing date, the Governor and the Managing Director may, at the request in writing of an officer of the Commonwealth Banking Corporation Service who became such an officer by virtue of the last preceding section, jointly declare that, in their opinion, it is desirable that the officer should be transferred to the Reserve Bank Service on such date as is specified in the declaration, being a date not later than three months after the commencing date.

Transfer to Reserve Bank Service within three months after commencing date.

(2.) Where a declaration is made under the last preceding sub-section in respect of a person—

- (a) that person shall, on the date specified in the declaration, cease to be an officer of the Commonwealth Banking Corporation Service; and
- (b) the Reserve Bank shall, on that date, appoint that person as an officer of the Reserve Bank Service.

Transfer to
Commonwealth
Banking
Corporation
Service within
three months
after
commencing
date.

19.—(1.) At any time within three months after the commencing date, the Governor and the Managing Director may, at the request in writing of an officer of the Reserve Bank Service who became such an officer by virtue of section sixteen of this Act, jointly declare that, in their opinion, it is desirable that the officer should be transferred to the Commonwealth Banking Corporation Service on such date as is specified in the declaration, being a date not later than three months after the commencing date.

(2.) Where a declaration is made under the last preceding sub-section in respect of a person—

- (a) that person shall, on the date specified in the declaration, cease to be an officer of the Reserve Bank Service; and
- (b) the Commonwealth Banking Corporation shall, on that date, appoint that person as an officer of the Commonwealth Banking Corporation Service.

Provisions
applicable
to the Reserve
Bank Service.

20.—(1.) The Reserve Bank shall, on the appointment to the Reserve Bank Service of a person under this Part, appoint that person at a rate of remuneration not less than the rate of remuneration to which he was entitled as an officer of the Commonwealth Bank Service immediately before the commencing date.

(2.) An officer appointed to the Reserve Bank Service under this Part shall not, except for incapacity or misconduct, be retired or dismissed from the Reserve Bank Service—

- (a) in the case of a male officer—before he has attained the age of sixty years; or
- (b) in the case of a female officer—before she has attained the age of fifty-five years or, if she was unmarried at the commencing date, before she has attained that age or before her marriage, whichever first occurs.

(3.) Provision shall be made—

- (a) in any terms and conditions of service of officers of the Reserve Bank Service determined by the Reserve Bank, or prescribed by regulations under the *Reserve Bank Act* 1959, that have reference to the length of service of officers; and

(b) in any rules made for or in relation to the superannuation fund established under section seventy of that Act that have reference to the length of service of officers, for the recognition as service in the Reserve Bank Service by an officer appointed to that Service under this Part of—

(c) service by him as an officer of the Commonwealth Bank of Australia under the *Commonwealth Bank Act* 1911, or under that Act as amended from time to time, or service by him in the Commonwealth Bank Service; and

(d) service by him within three months after the commencing date in the Commonwealth Banking Corporation Service.

(4.) The reference in sub-section (2.) of section sixty-six of the *Reserve Bank Act* 1959 to officers appointed under Part VII. of that Act shall be read as including a reference to officers appointed to the Reserve Bank Service under this Part.

21.—(1.) A position which existed in the Commonwealth Bank Service immediately before the commencing date, not being a position—

Provisions
applicable to
Commonwealth
Banking
Corporation
Service.

(a) occupied immediately before that date by a person appointed on that date to the Reserve Bank Service under section sixteen of this Act; or

(b) declared by the Commonwealth Banking Corporation by instrument in writing on that date to be a position not to be continued in the Commonwealth Banking Corporation Service,

shall, subject to sections ninety-seven and ninety-eight of the *Commonwealth Banks Act* 1959, be deemed to have become, on that date, a position in the Commonwealth Banking Corporation Service with the same classification as was applicable to the position immediately before that date.

(2.) A person who, immediately before the commencing date, was an officer of the Commonwealth Bank Service occupying a position to which the last preceding sub-section applies shall be deemed to have been appointed on that date to that position in the Commonwealth Banking Corporation Service.

(3.) The Commonwealth Banking Corporation shall, on the first appointment to a position in the Commonwealth Banking Corporation Service of—

(a) a person who became an officer of that Service by virtue of section seventeen of this Act and is not deemed to have been appointed to a position in that Service by virtue of the last preceding sub-section; or

(b) a person appointed as an officer of that Service under section nineteen of this Act, appoint that person to a position which has the same classification as the classification of the position occupied by that person in the Commonwealth Bank Service immediately before the commencing date.

(4.) Provision shall be made—

(a) in any terms and conditions of service of officers of the Commonwealth Banking Corporation Service determined by the Commonwealth Banking Corporation that have reference to the length of service of officers;

(b) in any regulations made by virtue of paragraph (b) of sub-section (2.) of section ninety-nine of the *Commonwealth Banks Act* 1959 for determining the seniority of officers of the Commonwealth Banking Corporation Service; and

(c) in any rules made for or in relation to the superannuation fund established by section one hundred and ten of that Act that have reference to the length of service of officers,

for the recognition as service in the Commonwealth Banking Corporation Service by an officer of that Service who became such an officer by virtue of this Part of—

(d) service by him as an officer of the Commonwealth Bank of Australia under the *Commonwealth Bank Act* 1911, or under that Act as amended from time to time, or service by him in the Commonwealth Bank Service; and

(e) service by him within three months after the commencing date in the Reserve Bank Service.

(5.) The reference in sub-section (2.) of section eighty-eight of the *Commonwealth Banks Act* 1959 to officers appointed under Part VIII. of that Act shall be read as including a reference to persons who become officers of the Commonwealth Banking Corporation Service by virtue of this Part.

Accrued rights
to leave.

22. An officer of the Commonwealth Bank Service appointed, or deemed to have been appointed, to the Reserve Bank Service or the Commonwealth Banking Corporation Service under this Part retains the rights, if any, in respect of—

(a) recreation leave;

(b) long service leave or pay in lieu of long service leave; and

(c) leave on the ground of illness,

that had accrued to him as an officer of the Commonwealth Bank Service before the commencing date.

23.—(1.) Subject to the next succeeding sub-section, the superannuation fund of the Commonwealth Bank of Australia existing immediately before the commencing date under section one hundred and ninety-one of the *Commonwealth Bank Act* 1945–1953 shall form part of the superannuation fund established by section one hundred and ten of the *Commonwealth Banks Act* 1959. Superannuation.

(2.) For the purpose of making provision in respect of persons who—

- (a) immediately before the commencing date, were members of the superannuation fund of the Commonwealth Bank of Australia existing under section one hundred and ninety-one of the *Commonwealth Bank Act* 1945–1953; and
- (b) on, or within three months after, the commencing date, become members of the superannuation fund established by section seventy of the *Reserve Bank Act* 1959,

there shall be paid out of that first-mentioned superannuation fund into that last-mentioned superannuation fund such amount as is determined, in accordance with principles approved by the Treasurer, by an actuary appointed by the Governor and the Managing Director.

PART VI.—STATUTORY RESERVE DEPOSITS.

24. In this Part—

- “the commencing date” means the date on which Division 3 of Part II. of the *Banking Act* 1959 comes into operation;
- “the Commonwealth Bank” means the Commonwealth Bank of Australia;
- “trading bank” has the same meaning as in the *Banking Act* 1959.

Definitions.

25.—(1.) The Commonwealth Bank may, before the commencing date, by instrument in writing served on a trading bank in accordance with the next succeeding sub-section, determine that, upon the commencing date, the statutory reserve deposit ratio applicable to the bank shall be such percentage as is specified in the determination. Determination of statutory reserve deposit ratios.

(2.) Service of a determination under the last preceding sub-section shall be effected—

- (a) in a case where the percentage specified in the determination is greater than twenty-five per centum—at least forty-five days before the commencing date; and
- (b) in any other case—not later than the day before the commencing date.

Revocation or
variation of
determinations.

26. The Commonwealth Bank may, by instrument in writing served on a trading bank before the commencing date—

- (a) revoke a determination made under this Part in respect of the bank; or
- (b) vary a determination so made by substituting for the percentage specified in the determination a lesser percentage.

Limitation of
powers of
Commonwealth
Bank under
this Part.

27.—(1.) In this section—

“prescribed bank” means—

- (a) the Bank of China;
- (b) the Bank of New Zealand;
- (c) The Brisbane Permanent Building and Banking Company Limited; and
- (d) the Comptoir National d'Escompte de Paris;

“statutory reserve deposit ratio”, in relation to a bank, means the percentage specified in a determination under this Part that will, by virtue of the next succeeding section, be the statutory reserve deposit ratio applicable to the bank on the commencing date for the purposes of Division 3 of Part II. of the *Banking Act 1959*.

(2.) The Commonwealth Bank shall exercise its powers under this Part in such a manner—

- (a) that, if a statutory reserve deposit ratio applies to a trading bank other than a prescribed bank—
 - (i) a statutory reserve deposit ratio equal to that first-mentioned statutory reserve deposit ratio also applies to each other trading bank other than a prescribed bank; and
 - (ii) a statutory reserve deposit ratio greater than that first-mentioned statutory reserve deposit ratio does not apply to a prescribed bank; and
- (b) that, if a statutory reserve deposit ratio does not apply to a trading bank other than a prescribed bank, a statutory reserve deposit ratio does not apply to a prescribed bank.

Effect of
determinations
under this
Part.

28. On and after the commencing date, a determination under this Part has effect for the purposes of Division 3 of Part II. of the *Banking Act 1959* in relation to the trading bank to which it applies as if it were a determination made by the Reserve Bank of Australia under that Division that came into force on that date.

PART VII.—MISCELLANEOUS.

Saving of
regulations, &c.

29.—(1.) If 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, on the date of commencement of this Part, by instrument published in the *Gazette*, declare that, notwithstanding the repeal effected by section four of the *Banking Act* 1959, the Banking (Foreign Exchange) Regulations in force under the *Banking Act* 1945–1953 immediately before the commencement of this Part shall continue in force as if they were made under the *Banking Act* 1959 and in that case—

- (a) those regulations shall continue in force accordingly but may be amended or repealed by regulations under the *Banking Act* 1959; and
- (b) any instrument in force under or by virtue of those regulations immediately before the commencement of this Part shall continue in force but may be revoked or varied under those regulations as continued in force.

(2.) Directions given by the Commonwealth Bank of Australia under sub-section (3.) of section thirty-five of the *Banking Act* 1945, or of that Act as amended, and in force immediately before the date on which this Part comes into operation, shall have effect as if they were directions given under sub-section (3.) of section forty-five of the *Banking Act* 1959.

30. A reference in paragraph (c) or (d) of sub-section (1.) of section twenty-three c of the *Income Tax and Social Services Contribution Assessment Act* 1936–1959 to the Reserve Bank of Australia shall be read as including a reference to the Commonwealth Bank of Australia.

Transitional provisions relating to exemption of certain income from sale of gold.

31.—(1.) An amount paid by a bank to the Commonwealth under section fifty-six of the *Banking Act* 1945–1953 and, immediately before the commencement of this Part, standing to the credit of the Trust Fund kept under section sixty of the *Audit Act* 1901–1957 shall, subject to the next succeeding sub-section, be paid, at the expiration of six years after payment to the Commonwealth, to the Consolidated Revenue Fund.

Unclaimed moneys.

(2.) Sub-section (7.) of section sixty-nine of the *Banking Act* 1959 applies to unclaimed moneys paid to the Treasurer under section fifty-six of the *Banking Act* 1945 or to the Commonwealth under section fifty-six of the *Banking Act* 1945–1953 as if those moneys had been paid to the Commonwealth under that first-mentioned section.

(3.) The Consolidated Revenue Fund is appropriated for the purposes of, and to the extent necessary to give effect to, the last preceding sub-section.