



Commonwealth Banks Amendment Act 1981

No. 29 of 1981

An Act to amend the *Commonwealth Banks Act 1959*, and for related purposes

[Assented to 14 April 1981]

[Date of commencement 12 May 1981]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

1. (1) This Act may be cited as the *Commonwealth Banks Amendment Act 1981*.

(2) The *Commonwealth Banks Act 1959*¹ is in this Act referred to as the Principal Act.

2. Section 24 of the Principal Act is repealed and the following section substituted:

Disclosure of pecuniary interests

“24. (1) A member of the Board who has a direct or indirect pecuniary interest—

- (a) in a matter that is being considered or about to be considered by the Board; or
- (b) in a contract (other than a contract in relation to which a matter is being considered or about to be considered by the Board) made or proposed to be made by the Corporation, the Trading Bank, the Savings Bank or the Development Bank,

shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

“(2) A member of an Executive Committee for the Trading Bank, the Savings Bank or the Development Bank who has a direct or indirect pecuniary interest—

- (a) in a matter that is being considered or about to be considered by that Executive Committee; or
- (b) in a contract (other than a contract in relation to which a matter is being considered or about to be considered by that Executive Committee) made or proposed to be made by that bank,

shall, unless he has previously disclosed the nature of his interest in that matter or contract to the Board in accordance with sub-section (1), as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of that Executive Committee.

“(3) A disclosure under this section to the Board or to an Executive Committee shall be recorded in the minutes of the Board or of the Executive Committee, as the case may be.

“(4) After a member of the Board has, in pursuance of this section, disclosed the nature of his interest in a matter that is being or about to be considered by the Board or by an Executive Committee to the Board or to that Executive Committee, the member shall not, unless either the Board or that Executive Committee, as the case requires, or the Treasurer otherwise determines—

- (a) be present during any deliberation of the Board, or of that Executive Committee, with respect to the matter; or
- (b) take part in any decision of the Board, or of that Executive Committee, with respect to the matter.

“(5) For the purpose of the making of a determination by the Board or by an Executive Committee under sub-section (4) in relation to a member of the Board who has made a disclosure under this section to the Board or to that Executive Committee, a member of the Board who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not—

- (a) be present during any deliberation of the Board or the Executive Committee, as the case may be, for the purpose of making the determination; or
- (b) take part in the making by the Board or by that Executive Committee, as the case may be, of that determination.”.

Interpretation

3. Section 87 of the Principal Act is amended—

(a) by omitting the definition of “the Disciplinary Appeal Board” and substituting the following definition:

“‘superannuation rules’ means rules made under sub-section 110(2) for or in relation to the superannuation fund established under sub-section 110(1);”;

(b) by adding at the end thereof the following definition:

“‘the Tenure and Disciplinary Appeal Board’ means the Tenure and Disciplinary Appeal Board referred to in section 109.”.

No work as directed—no pay

4. Section 89A of the Principal Act is amended by omitting sub-section (11) and substituting the following sub-section:

“(11) The period during which a declaration under sub-section (1) has effect in respect of an officer or employee forms part of his period of service or employment under this Act—

(a) in a case where he is an eligible employee within the meaning of the *Superannuation Act* 1976—for the purposes of that Act; or

(b) in a case where he is a contributor to the superannuation fund established under sub-section 110(1)—for the purposes of the superannuation rules,

but does not, unless the Corporation otherwise determines, form part of his period of service or employment under this Act for any other purpose.”.

Promotions Appeal Board

5. (1) Section 101 of the Principal Act is amended—

(a) by omitting sub-section (3) and substituting the following sub-sections:

“(3) Subject to this section, the Chairman of the Promotions Appeal Board—

(a) holds office for such period, not exceeding 3 years, as is specified in the instrument of his appointment and on such terms and conditions as the Governor-General determines; and

(b) is eligible for re-appointment.

“(3AA) The Governor-General may terminate the appointment of the Chairman of the Promotions Appeal Board by reason of misbehaviour or physical or mental incapacity.

“(3AB) The Chairman of the Promotions Appeal Board may resign his office by writing signed by him delivered to the Governor-General.”; and

(b) by inserting after sub-section (3B) the following sub-section:

“(3C) The officer referred to in paragraph (2) (b) holds office as a member of the Promotions Appeal Board during the pleasure of the Managing Director.”.

(2) Notwithstanding the amendment made by paragraph (1) (a), the person who, immediately before the date of commencement of this Act, held office as the Chairman of the Promotions Appeal Board continues to hold office, on and after that date, during the pleasure of the Governor-General.

(3) The person who, immediately before the date of commencement of this Act, held office as the member of the Promotions Appeal Board by virtue of paragraph 101 (2) (b) of the Principal Act continues to hold office, on and after that date, as if his appointment to the office were an appointment to that office by virtue of paragraph 101 (2) (b) of the Principal Act as amended by this Act.

Tenure of office

6. Section 102 of the Principal Act is amended—

(a) by omitting sub-section (1) and substituting the following sub-section:

“(1) An officer who has attained the age of 55 years is entitled to retire from the Service at any time at which he desires to do so, but may, subject to this Part, continue in the Service until he attains the age of 65 years.”;

(b) by omitting sub-section (2) and substituting the following sub-section:

“(2) If an officer who has attained the age of 55 years—

- (a) is unfit to discharge or incapable of discharging the duties of his position by reason of physical or mental incapacity; or
- (b) is, for any other reason, no longer performing the duties of his position in such a manner as to permit the Corporation to make efficient and economical use of his services,

the Corporation may—

(c) if it is reasonable and practicable to do so—do any one or more of the following things:

- (i) transfer him to some other position in the Service;
- (ii) reduce his salary;
- (iii) determine that he be not granted, or be not granted until the expiration of a specified period, the whole, or such part as the Corporation specifies, of a specified increase in salary (including an increase by way of an increment in a range of salary applicable in relation to his position) that would otherwise be granted to him; or

(d) in any other case—retire him from the Service.”; and

(c) by omitting sub-section (4).

Excess officers

7. Section 103 of the Principal Act is amended by omitting sub-section (3).

Repeal of Division heading

8. The heading to Division 5 of Part VIII of the Principal Act is repealed.

Retirement, &c., of officers under 55 on grounds of inefficiency, incapacity, &c.

9. Section 106 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:

“(1) If an officer who has not attained the age of 55 years is unfit to discharge or incapable of discharging the duties of his position—

- (a) by reason of physical or mental incapacity; or
- (b) by reason of inefficiency or incompetence through causes outside his own control,

the Corporation may—

- (c) if it is reasonable and practicable to do so—do any one or more of the following things:
 - (i) transfer him to some other position in the Service;
 - (ii) reduce his salary;
 - (iii) determine that he be not granted, or be not granted until the expiration of a specified period, the whole, or such part as the Corporation specifies, of a specified increase in salary (including an increase by way of an increment in a range of salary applicable in relation to his position) that would otherwise be granted to him; or
- (d) in any other case—retire him from the Service.”.

Insertion of Division heading

10. After section 106 of the Principal Act the following heading is inserted:

“Division 5—Discipline”.

Insertion of Division heading

11. After section 107 of the Principal Act the following heading is inserted:

“Division 5A—Appeals to Tenure and Disciplinary Appeal Board”.

Appeals

12. Section 108 of the Principal Act is amended by omitting sub-section (1) and substituting the following sub-section:

“(1) Where—

- (a) under sub-section 102 (2) or 103 (2) or section 106, an officer is retired;
- (b) under sub-section 107 (1), an officer is dismissed; or
- (c) under sub-section 102 (2), section 106 or sub-section 107 (1)—

- (i) an officer is transferred or has his salary reduced; or
- (ii) the Corporation determines that an officer be not granted, or be not granted until the expiration of a specified period, the whole or a part of an increase in salary,

the officer or former officer, as the case requires, may appeal to the Tenure and Disciplinary Appeal Board against the action taken in relation to him.”.

Tenure and Disciplinary Appeal Board

13. Section 109 of the Principal Act is amended—

- (a) by omitting sub-section (1) and substituting the following sub-section:

“(1) The board by the name of the Disciplinary Appeal Board established by the sub-section for which this sub-section was substituted by the *Commonwealth Banks Amendment Act 1981* continues in existence, by force of this sub-section, under and subject to the provisions of this Act, under the name ‘Tenure and Disciplinary Appeal Board’.”;

- (b) by omitting sub-section (3) and substituting the following sub-sections:

“(3) Subject to this section, the Chairman of the Tenure and Disciplinary Appeal Board—

- (a) holds office for such period, not exceeding 3 years, as is specified in the instrument of his appointment and on such terms and conditions as the Governor-General determines; and
- (b) is eligible for re-appointment.

“(3AA) The Governor-General may terminate the appointment of the Chairman of the Tenure and Disciplinary Appeal Board by reason of misbehaviour or physical or mental incapacity.

“(3AB) The Chairman of the Tenure and Disciplinary Appeal Board may resign his office by writing signed by him delivered to the Governor-General.”; and

- (c) by inserting after sub-section (3B) the following sub-section:

“(3C) The officer referred to in paragraph (2) (b) holds office as a member of the Tenure and Disciplinary Appeal Board during the pleasure of the Managing Director.”.

14. After section 110 of the Principal Act the following section is inserted:

Benefits

“110A. (1) The regulations may make provision for and in relation to the payment, in such circumstances as are prescribed, to or in respect of an officer, being—

- (a) an officer who has been retired from the Service under sub-section 102 (2) on the ground referred to in paragraph (b) of that sub-section; or

(b) an officer who has been retired from the Service under sub-section 103 (2),
of a benefit, whether by way of a lump sum or otherwise, ascertained in such manner as is provided for in the regulations.

“(2) Where regulations made for the purposes of sub-section (1) provide for the payment of a benefit by way of a lump sum, those regulations may provide for the payment of different benefits by way of a lump sum to or in respect of different classes of officers and, for the purposes of this sub-section, a class of officers may be constituted by all or any of the officers referred to in either or both of the paragraphs of sub-section (1).

“(3) The regulations—

(a) may make provision for the purpose of—

- (i) enabling a person who is entitled to the payment of a lump sum under regulations made for the purposes of sub-section (1) and who is or becomes, in such circumstances as the regulations prescribe, entitled to pension benefits under the superannuation rules in consequence of his retirement to elect that, in lieu of that sum, there be paid to him benefits, calculated in such manner as is provided for in the regulations, being pension benefits similar to pension benefits payable under the superannuation rules; and
- (ii) enabling the payment of such a pension benefit to the person entitled to it in association with any pension benefit payable to the person under the superannuation rules as if it were a pension benefit so payable;
- (b) may provide for such an election to become void if the person who made the election subsequently ceases, in such circumstances as the regulations prescribe, to be entitled to pension benefits under the superannuation rules;
- (c) may apply the superannuation rules, subject to such modifications and adaptations as are prescribed by the regulations, to and in relation to such a benefit; and
- (d) may make such other provision, not inconsistent with this Act, as is necessary to be made for carrying out or giving effect to the purpose specified in paragraph (a).

“(4) In sub-section (3), ‘modification’ includes the addition or omission of a provision or the substitution of a provision for another provision.”.

Formal and consequential amendments

15. The Principal Act is amended as set out in the Schedule.

Transitional provision with respect to Tenure and Disciplinary Appeal Board

16. (1) Anything done before the commencing date by the Disciplinary Appeal Board in relation to the hearing and determining of an appeal under

section 108 of the Principal Act has effect on and after that date as if it had been done by the Tenure and Disciplinary Appeal Board.

(2) Notwithstanding the amendment made by paragraph 13 (b), the person who, immediately before the commencing date, held office as the Chairman of the Disciplinary Appeal Board continues to hold office, on and after that date, during the pleasure of the Governor-General, as if his appointment to that office were an appointment as the Chairman of the Tenure and Disciplinary Appeal Board.

(3) The person who, immediately before the commencing date, held office as the member of the Disciplinary Appeal Board by virtue of paragraph 109 (2) (b) of the Principal Act continues to hold office, on and after that date, as if his appointment to that office were an appointment by virtue of paragraph 109 (2) (b) of the Principal Act as amended by the Act as a member of the Tenure and Disciplinary Appeal Board.

(4) The person who, immediately before the commencing date, held office as the member of the Disciplinary Appeal Board by virtue of paragraph 109 (2) (c) of the Principal Act continues to hold office, on and after that date, subject to the provisions of the Principal Act as amended by this Act, for the remainder of his term of office as if his appointment to that office were an appointment by virtue of paragraph 109 (2) (c) of the Principal Act as amended by this Act as a member of the Tenure and Disciplinary Appeal Board.

(5) In this section—

“commencing date” means the date of commencement of this Act;

“Disciplinary Appeal Board” means the board of that name established under section 109 of the Principal Act;

“Tenure and Disciplinary Appeal Board” means the Disciplinary Appeal Board as continued in existence under the name “Tenure and Disciplinary Appeal Board” under section 109 of the Principal Act as amended by this Act.

SCHEDULE

Section 15

FORMAL AND CONSEQUENTIAL AMENDMENTS

The Principal Act is amended as set out in the following table.

Provision	Amendment
Section 5A (1)	Omit "of this section".
Section 5A (2)	Omit " <i>Acts Interpretation Act 1901-1973</i> ", substitute " <i>Acts Interpretation Act 1901</i> ".
Section 11 (2)	Omit "the last preceding sub-section", substitute "sub-section (1)".
Section 11 (7)	Omit "fifteen", substitute "15".
Section 12 (2)	Omit "sub-section (1) of section 9", substitute "sub-section 9 (1)".
Section 14 (1)	Omit "eight", substitute "8".
Section 14 (2)	(a) Omit "paragraph (d) of the last preceding sub-section", substitute "paragraph (1) (d)". (b) Omit "five", substitute "5".
Section 14 (4)	Omit "paragraph (d) of sub-section (1)", substitute "paragraph (1) (d)".
Sub-section 14 (6)	Omit " <i>Remuneration Tribunals Act 1973-1974</i> ", substitute " <i>Remuneration Tribunals Act 1973</i> ".
Section 16 (1)	Omit "paragraph (d) of sub-section (1) of section 14", substitute "paragraph 14 (1) (d)".
Section 16 (2)	Omit "The last preceding sub-section", substitute "Sub-section (1)".
Section 17 (1)	(a) Omit "paragraph (d) of sub-section (1) of section 14", substitute "paragraph 14 (1) (d)". (b) Omit "two consecutive months or during any three months in any period of twelve months", substitute "2 consecutive months or during any 3 months in any period of 12 months".
Section 17 (2)	Omit "twelve", substitute "12".
Section 18 (1)	Omit "paragraph (d) of sub-section (1) of section 14", substitute "paragraph 14 (1) (d)".
Section 20 (1)	Omit "four", substitute "4".
Section 21 (2)	Omit "the last preceding sub-section", substitute "sub-section (1)".
Section 25 (1)	Omit "seven", substitute "7".
Section 25 (3)	Omit " <i>Remuneration Tribunals Act 1973-1974</i> ", substitute " <i>Remuneration Tribunals Act 1973</i> ".
Section 27	(a) Omit "sub-section (1) of section 4", substitute "sub-section 4 (1)". (b) Omit " <i>Commonwealth Bank Act 1945-1953</i> ", substitute " <i>Commonwealth Bank Act 1945</i> ".
Section 29 (2)	Omit "the last preceding sub-section", substitute "sub-section (1)".
Section 30	Omit "the next succeeding section", substitute "section 31".
Section 31 (1)	(a) Omit " <i>Commonwealth Bank Act 1945-1953</i> ", substitute " <i>Commonwealth Bank Act 1945</i> ". (b) Omit "the next succeeding section", substitute "section 32".
Section 33 (2)	Omit "seven", substitute "7".
Section 33 (4)	Omit " <i>Remuneration Tribunals Act 1973-1974</i> ", substitute " <i>Remuneration Tribunals Act 1973</i> ".
Section 40	(a) Omit "sub-section (1) of section 4", substitute "sub-section 4 (1)". (b) Omit " <i>Commonwealth Bank Act 1911-1943</i> and continued in existence under the <i>Commonwealth Bank Act 1945-1953</i> ", substitute " <i>Commonwealth Bank Act 1911</i> and continued in existence under the <i>Commonwealth Bank Act 1945</i> ".
Section 42 (2)	Omit "the last preceding sub-section", substitute "sub-section (1)".
Section 43	(a) Omit " <i>Commonwealth Bank Act 1945-1953</i> ", substitute " <i>Commonwealth Bank Act 1945</i> ".

SCHEDULE—continued

Provision	Amendment
	(b) Omit "the next succeeding section", substitute "section 44".
Section 45 (2)	Omit "seven", substitute "7".
Section 45 (4)	Omit " <i>Remuneration Tribunals Act 1973-1974</i> ", substitute " <i>Remuneration Tribunals Act 1973</i> ".
Section 52 (1)	Omit "one dollar", substitute "\$1".
Section 53 (1)	Omit "seven", substitute "7".
Section 53 (3)	Omit "six", substitute "6".
Section 53 (4)	Omit "ten", substitute "10".
Section 60	Omit "ninety per centum", substitute "90%".
Section 65	Omit "five years or for a period of more than thirty-five years", substitute "5 years or for a period of more than 35 years".
Section 69 (1)	Omit "five", substitute "5".
Section 69 (2)	Omit "Twenty dollars", substitute "\$20".
Section 69 (3)	Omit "the last preceding sub-section", substitute "sub-section (2)".
Section 69 (6)	Omit "the last preceding sub-section", substitute "sub-section (5)".
Section 70 (2)	Omit "paragraph (a) of the last preceding sub-section", substitute "paragraph (1) (a)".
Section 72	Omit "sub-paragraph (ii) of paragraph (a)", substitute "sub-paragraph (a) (ii)".
Section 74 (2)	Omit "the last preceding sub-section", substitute "sub-section (1)".
Section 75	Omit "the next succeeding section", substitute "section 76".
Section 76	(a) Omit " <i>Commonwealth Bank Act 1945-1953</i> " (wherever occurring), substitute " <i>Commonwealth Bank Act 1945</i> ". (b) Omit "the next succeeding section", substitute "section 77".
Section 78 (2)	Omit "seven", substitute "7".
Section 78 (4)	Omit " <i>Remuneration Tribunals Act 1973-1974</i> ", substitute " <i>Remuneration Tribunals Act 1973</i> ".
Section 94 (2)	(a) Omit "the last preceding sub-section", substitute "sub-section (1)". (b) Omit "twelve", substitute "12".
Section 95 (1)	Omit "twenty-five", substitute "25".
Section 95 (2)	Omit "the last preceding sub-section", substitute "sub-section (1)".
Section 96 (2)	Omit "the last preceding sub-section", substitute "sub-section (1)".
Section 96 (3)	(a) Omit "the last preceding sub-section", substitute "sub-section (2)". (b) Omit "fifteen", substitute "15".
Section 98 (3)	Omit "the last preceding sub-section", substitute "sub-section (2)".
Section 98 (4)	Omit "the last preceding sub-section", substitute "sub-section (3)".
Section 99 (1)	Omit "two", substitute "2".
Section 99 (2)	Omit "sub-section (1) of section (6) of the <i>Defence (Re-establishment) Act 1965-1968</i> ", substitute "sub-section 6 (1) of the <i>Defence (Re-establishment) Act 1965</i> ".
Section 99 (3)	Omit "the last preceding sub-section", substitute "sub-section (2)".
Section 100 (8)	Omit "the last preceding sub-section", substitute "sub-section (7)".
Section 101 (3B)	Omit " <i>Remuneration Tribunals Act 1973-1974</i> ", substitute " <i>Remuneration Tribunals Act 1973</i> ".
Section 101 (6)	Omit "the next succeeding sub-section", substitute "sub-section (7)".
Section 101 (9)	Omit "paragraph (c) of sub-section (2)", substitute "paragraph (2) (c)".
Section 102 (3)	Omit "sixty-five", substitute "65".
Section 105	Omit "twelve", substitute "12".
Section 107 (2)	Omit "the last preceding sub-section", substitute "sub-section (1)".
Section 107 (4)	(a) Omit "the next succeeding sub-section", substitute "sub-section (5)". (b) Omit "the last preceding sub-section", substitute "sub-section (3)".

SCHEDULE---continued

Provision	Amendment
Section 107 (7)	Omit "paragraph (b) of sub-section (3)", substitute "paragraph (3) (b)".
Section 107 (8)	Omit "the next succeeding sub-section", substitute "sub-section (9)".
Section 107 (9)	Omit "the last preceding sub-section", substitute "sub-section (8)".
Section 107 (10)	Omit "sub-section (1) of section 90", substitute "sub-section 90 (1)".
Section 108 (3)	Omit "Disciplinary", substitute "Tenure and Disciplinary".
Section 108 (4)	Omit "Disciplinary", substitute "Tenure and Disciplinary".
Section 108 (5)	Omit "Disciplinary", substitute "Tenure and Disciplinary".
Section 109 (2)	Omit "Disciplinary", substitute "Tenure and Disciplinary".
Section 109 (3A)	Omit "Disciplinary", substitute "Tenure and Disciplinary".
Section 109 (3B)	Omit " <i>Remuneration Tribunals Act 1973-1974</i> , the Chairman of the Disciplinary", substitute " <i>Remuneration Tribunals Act 1973</i> , the Chairman of the Tenure and Disciplinary".
Section 109 (6)	(a) Omit "the next succeeding sub-section", substitute "sub-section (7)". (b) Omit "Disciplinary" (wherever occurring), substitute "Tenure and Disciplinary".
Section 109 (7)	Omit "Disciplinary" (wherever occurring), substitute "Tenure and Disciplinary".
Section 109 (8)	Omit "Disciplinary", substitute "Tenure and Disciplinary".
Section 109 (9)	Omit "paragraph (c) of sub-section (2)", substitute "paragraph (2) (c)".
Section 112	(a) Omit " <i>Commonwealth Bank Act 1945-1953</i> ", substitute " <i>Commonwealth Bank Act 1945</i> ". (b) Omit "sixty", substitute "60". (c) Omit "sixty-five", substitute "65".
Section 119 (1)	Omit "the next succeeding sub-section", substitute "sub-section (2)".
Section 119 (2)	Omit "The last preceding sub-section", substitute "Sub-section (1)".
Section 120 (2)	Omit "the last preceding sub-section", substitute "sub-section (1)".
Section 121 (1)	Omit "thirtieth day of June", substitute "30 June".
Section 121 (2)	Omit "the last preceding sub-section", substitute "sub-section (1)".
Section 129	Omit "One hundred dollars", substitute "\$100".

NOTE

1. No. 5, 1959, as amended. For previous amendments, see No. 75, 1961; No. 3, 1962; No. 57, 1963; No. 132, 1965; Nos. 58 and 93, 1966; No. 144, 1968; Nos. 18, 117 and 216, 1973; No. 81, 1974; Nos. 36 and 77, 1978; and No. 177, 1980.