



# Commonwealth Bank Sale Act 1995

No. 161, 1995

## Compilation No. 7

<b>Compilation date:</b>	5 March 2016
<b>Includes amendments up to:</b>	Act No. 126, 2015
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Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Commonwealth Bank Sale Act 1995* that shows the text of the law as amended and in force on 5 March 2016 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

### Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

### Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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# **An Act to facilitate the sale of the Commonwealth's shares in the Commonwealth Bank, and for related purposes**

## **Part 1—Preliminary**

### **1 Short title**

This Act may be cited as the *Commonwealth Bank Sale Act 1995*.

### **2 Commencement**

- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) Part 3, and all the items of the Schedule (except items 1, 12, 16, 17, 21, 22, 23, 26, 27, 31, 37 and 48), commence at the transfer time.
- (3) Item 12 of the Schedule commences on a date to be fixed by Proclamation.
- (4) Item 22 of the Schedule commences on the first anniversary of the day on which the transfer time occurs.
- (5) Item 37 of the Schedule commences at the transfer time or at the beginning of 9 May 1996, whichever is later.
- (6) Items 1 and 48 of the Schedule commence on the 10th anniversary of the day on which the transfer time occurs.

### **3 Interpretation**

In this Act, unless the contrary intention appears:

***Bank body*** means:

Section 3

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- (a) the Commonwealth Bank, the Commonwealth Development Bank of Australia Limited or the Commonwealth Bank Officers Superannuation Corporation; or
- (b) a body corporate that is a subsidiary (as defined in Division 6 of Part 1.2 of the Corporations Law) of the Commonwealth Bank.

**Commonwealth Bank** means the Commonwealth Bank of Australia.

**transfer time** means the time when the Commonwealth ceases to have the status of being the holder of shares in the Commonwealth Bank that carry more than 50% of the total voting rights attached to the voting shares in the Commonwealth Bank.

## **Part 3—Transitional and saving**

### **Division 1—Safety, Rehabilitation and Compensation Act 1988**

#### **5 Interpretation**

- (1) Unless the contrary intention appears, expressions used in this Division that are also used in the SRC Act have the same respective meanings as in that Act.
- (2) In this Division:

***SRC Act*** means the *Safety, Rehabilitation and Compensation Act 1988*.

#### **6 SRC Act continues to apply to Commonwealth Bank etc. for certain purposes**

If a Bank body ceases to be a Commonwealth authority for the purposes of the SRC Act at the transfer time, the SRC Act continues to apply in relation to the Bank body to the extent, and in the manner, set out in sections 7 to 11 of this Act.

#### **7 SRC Act continues to apply for previous injuries etc.**

- (1) The SRC Act continues to apply after the transfer time in relation to:
  - (a) injuries suffered by employees of the Bank body before the transfer time; and
  - (b) loss of, or damage to, property incurred by employees of the Bank body before the transfer time;including employees who have stopped being employees of the Bank body before the transfer time.

**Section 8**

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- (2) For the purposes of subsection (1), the SRC Act continues to apply as if:
- (a) the Bank body continued to be a Commonwealth authority; and
  - (b) the chief executive officer (however described) of the Bank body continued to be the principal officer of a Commonwealth authority.

**8 Payment of premiums**

- (1) After the transfer time, Division 4A of Part VII of the SRC Act applies to the Bank body as if:
- (a) the Bank body continued to be a Commonwealth authority; and
  - (b) the Bank body were not required to pay a premium under that Division in respect of the part of a financial year that occurs after the transfer time; and
  - (c) the following word and paragraph were added at the end of subsection 96H(1) of the SRC Act:
    - “; or (f) in the case of an authority—the authority is not required to pay a premium under this Division in respect of part of a financial year.”.
- (2) If an amount of premium payable by the Bank body in respect of a period before the transfer time remains unpaid, the amount is a debt due to the Commonwealth by the Bank body and is payable to Comcare.

**9 Part VIIIA of the SRC Act**

Part VIIIA of the SRC Act continues to apply to the Bank body after the transfer time as if any licence granted to the Bank body under that Part were revoked at the transfer time.

**10 Refund of licence fee**

- (1) If the Bank body has paid a licence fee under section 107R of the SRC Act in respect of the licence fee year in which the transfer



time occurs, then the Bank body is entitled to be paid a refund of the amount worked out using the following formula:

$$\text{Licence fee} \times \frac{\text{Number of refund days}}{365}$$

where:

**Number of refund days** means the total number of days in the period beginning at the transfer time and ending on the last day of the licence fee year in which the transfer time occurs.

(2) In this section:

**licence fee year** means the year beginning on the date of commencement of a licence granted under section 107J of the SRC Act and ending on the day before the anniversary of that date.

## 11 Amendment of declarations

- (1) If a notice was published in the *Gazette* before the transfer time declaring the Bank body to be a body corporate to which the SRC Act applies for the purposes of the definition of **Commonwealth authority** in subsection 4(1) of the SRC Act, then the notice has effect after the transfer time as if it did not contain a reference to the Bank body.
- (2) Subsection (1) does not, by implication, prevent the amendment or revocation of the notice.

## 12 Section 128A of the SRC Act

Section 128A of the SRC Act continues to apply to the Commonwealth Bank after the transfer time as if the Commonwealth Bank continued to be a prescribed Commonwealth authority for the purposes of that section.

**13 Notification of amount of salary etc.**

- (1) This section applies to a Bank body that was a Commonwealth authority for the purposes of the SRC Act immediately before the transfer time.
- (2) The chief executive officer (however described) of the Bank body must notify the Commission, within 28 days after the transfer time, of the amount of salary, wages or pay paid to employees of the Bank body in the period starting on 1 July in the financial year in which the transfer time occurred and ending at the transfer time.

## **Division 2—Defence Force Retirement and Death Benefits Act 1973**

### **14 Interpretation**

In this Division:

***DFRDB Act*** means the *Defence Force Retirement and Death Benefits Act 1973*.

### **15 Deferred benefits**

- (1) This section applies if, immediately before the transfer time, an employee of a Bank body was a person to whom deferred benefits were applicable under section 78 of the DFRDB Act.
- (2) For the purposes of Division 3 of Part IX of the DFRDB Act, the employee is taken to continue in public employment, after the transfer time, so long as the employee continues to be employed by a Bank body.
- (3) This section is subject to Division 3 of Part IX of the DFRDB Act.

### **16 Periods of eligible employment**

If, immediately before the transfer time, a particular period of employment of a person by a Bank body was a period of eligible employment for the purposes of Division 3 of Part IX of the DFRDB Act, that period of employment continues to be a period of eligible employment for the purposes of that Division.

## Division 3—Miscellaneous

### 17 Saving previous operation of section 109 of the Commonwealth Banks Act

The repeal of section 109 of the *Commonwealth Banks Act 1959* does not affect:

- (a) the vesting of property in the Commonwealth Bank under that section before the repeal; or
- (b) the incurring of liabilities by the Commonwealth Bank under that section before the repeal.

### 18 Application of bad debt provisions of the Income Tax Assessment Act

- (1) In applying Subdivision 165-C or 166-C of the *Income Tax Assessment Act 1997* to decide whether a Bank body can deduct an amount for a bad debt in the year of income in which the completion time occurred, or in a later year of income, it must be assumed that the persons who beneficially owned the shares in the Commonwealth Bank immediately after the completion time were also the beneficial owners of the shares at all times before the completion time.
- (2) In this section:

*completion time* means the time when the Commonwealth ceases to be a shareholder in the Commonwealth Bank.

### 19 Regulations

- (1) The Governor-General may make regulations prescribing matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

- (2) In particular, regulations may be made in relation to matters of a transitional or saving nature arising out of the sale of the Commonwealth's shares in the Commonwealth Bank, or otherwise arising out of the enactment of this Act.
- (3) Subsection 12(2) (retrospective application of legislative instruments) of the *Legislation Act 2003* does not apply to regulations that are made under this section and that commence at or after the transfer time.

## Part 4—Exemption from certain taxes

### 20 Exemption from certain State and Territory taxes

- (1) No tax is payable under a law of a State or Territory in respect of an exempt matter or anything connected with an exempt matter.
- (2) An authorised person may, by signed writing, certify that:
  - (a) a specified matter or thing is an exempt matter; or
  - (b) a specified thing was done in connection with a specified exempt matter.
- (3) For all purposes and in all proceedings, a certificate under subsection (2) is evidence of the matter stated in the certificate.
- (4) A document that appears to be a certificate under subsection (2) is taken to be such a certificate and to have been properly given unless the contrary is established.

- (5) In this section:

***authorised person*** means:

- (a) the Minister; or
- (b) the Secretary of the Department; or
- (c) a person who:
  - (i) is an SES employee, or acting SES employee, in the Department; and
  - (ii) is authorised in writing by the Secretary of the Department for the purposes of this section.

***exempt matter*** means any of the following:

- (a) the sale by the Commonwealth of any of its shares in the Commonwealth Bank (other than a sale of those shares to the Commonwealth Bank);
- (b) an agreement relating to a sale that is covered by paragraph (a);

- (c) the transfer of any of the Commonwealth's shares in the Commonwealth Bank to a person other than the Commonwealth Bank;
- (d) the receipt of money by the Commonwealth in respect of a sale that is covered by paragraph (a).

**tax** means stamp duty, or any other tax, fee, duty, levy or charge, but does not include:

- (a) a fee payable under the Corporations Law of a State or Territory; or
- (b) a tax, fee, duty, levy or charge specified in a notice signed by the Minister and published in the *Gazette*.

## Endnotes

Endnote 1—About the endnotes

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## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can



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Endnote 1—About the endnotes

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be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

## Endnotes

### Endnote 2—Abbreviation key

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#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

**Endnote 3—Legislation history**

<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Commonwealth Bank Sale Act 1995	161, 1995	16 Dec 1995	s 5–19 and Sch (items 2–11, 13–15, 18–20, 24, 25, 28–30, 32–47, 49–59): 19 July 1996 (s 2(2), (5)) Sch (item 12): 22 Nov 1996 (s 2(3) and gaz 1996 No S442) Sch (item 22): 19 July 1997 (s 2(4)) Sch (items 1, 48): 19 July 2006 (s 2(6)) Remainder: 16 Dec 1995 (s 2(1))	
Tax Law Improvement Act (No. 1) 1998	46, 1998	22 June 1998	Sch 3 (item 21): 22 June 1998 (s 2(3))	s 4
Public Employment (Consequential and Transitional) Amendment Act 1999	146, 1999	11 Nov 1999	Sch 1 (item 300): 5 Dec 1999 (s 2(1), (2) and gaz 1999 No S584)	—
Financial Sector Legislation Amendment (Simplifying Regulation and Review) Act 2007	154, 2007	24 Sept 2007	Sch 4 (item 12): 24 Sept 2007 (s 2(1) item 7)	—
Statute Law Revision Act 2011	5, 2011	22 Mar 2011	Sch 7 (items 36, 37): 19 Apr 2011 (s 2(1) item 18)	—
Statute Law Revision Act 2012	136, 2012	22 Sept 2012	Sch 6 (items 21, 22): 22 Sept 2012 (s 2(1) item 37)	—

*Commonwealth Bank Sale Act 1995*

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## Endnotes

### Endnote 3—Legislation history

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<b>Act</b>	<b>Number and year</b>	<b>Assent</b>	<b>Commencement</b>	<b>Application, saving and transitional provisions</b>
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 124): 5 Mar 2015 (s 2(1) item 2)	—

## Endnote 4—Amendment history

**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
<b>Part 2</b>	
Part 2 .....	rep No 136, 2012
s 4 .....	rep No 136, 2012
<b>Part 3</b>	
<b>Division 3</b>	
s 18 .....	am No 46, 1998
s 19 .....	am No 154, 2007; No 126, 2015
<b>Part 4</b>	
s 20 .....	am No 146, 1999; No 5, 2011
<b>Schedule</b>	
Schedule .....	rep No 136, 2012