



## Statutory Rules

1974 No. 56

### REGULATION UNDER THE BANKING ACT 1959-1973.\*

WHEREAS by instrument under sub-section 29 (1) of the *Banking (Transitional Provisions) Act 1959* published in the *Gazette* on 14 January 1960, the Governor-General declared that, notwithstanding the repeal effected by section 4 of the *Banking Act 1959*, the Banking (Foreign Exchange) Regulations in force under the *Banking Act 1945-1953* immediately before the commencement of Part VII of the *Banking (Transitional Provisions) Act 1959* should continue in force as if they were made under the *Banking Act 1959*:

AND WHEREAS by virtue of paragraph 29 (1) (a) of the *Banking (Transitional Provisions) Act 1959-1973*, those Regulations may be amended or repealed by regulations under the *Banking Act 1959-1973*:

AND WHEREAS by section 39 of the *Banking Act 1959-1973*, it is provided that, 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 that Act, making provision for or in relation to the control of foreign exchange and, in particular, but without limiting the generality of the foregoing, for or in relation to certain matters specified in that section:

AND WHEREAS I, the Governor-General of Australia, acting with the advice of the Executive Council, am satisfied that it is expedient, for the protection of the currency and of the public credit of the Commonwealth, and in order to conserve, in the national interest, the foreign exchange resources of the Commonwealth, to make the following Regulation:

NOW THEREFORE I, the Governor-General, acting with the advice of the Executive Council, hereby make the following Regulation under the *Banking Act 1959-1973*.

Dated this *ten*  
day of *April*, 1974.

**Paul Hasluck**  
Governor-General.

By His Excellency's Command,

*(Frank Crean)*

Treasurer.

\* Notified in the *Australian Government Gazette* on , 1974.

AMENDMENTS OF THE BANKING (FOREIGN EXCHANGE) REGULATIONS\*

Regulation 42 of the Banking (Foreign Exchange) Regulations is amended by omitting sub-regulations (2) and (3) and substituting the following sub-regulations:—

Offences.

“(2) Subject to sub-regulations (3) and (4) where a person has been convicted by a court of an offence against these Regulations, the court may, if it thinks fit, order the forfeiture of all or any of the articles in respect of which the offence was committed.

“(3) The court shall not make an order under sub-regulation (2) for the forfeiture of any articles if a person satisfies the court—

- (a) that he is the owner of those articles; and
- (b) that he was not, in any way, directly or indirectly knowingly concerned in, or party to, the commission of the offence.

“(4) The court shall not make an order under sub-regulation (2) unless—

- (a) in a case where it appears to the court that a person other than the person convicted of the offence is the owner of all or any of the articles in respect of which the offence was committed—the court has caused notice of the prescribed particulars to be given to the first-mentioned person; or
- (b) in a case where it appears to the court that the owner of all or any of the articles in respect of which the offence was committed is not known—the court has caused notice of the prescribed particulars to be given by public advertisement in such manner, at such times, and in such places as the court considers appropriate.

“(5) For the purposes of sub-regulation (4) the prescribed particulars are—

- (a) particulars of the offence;
- (b) particulars of the articles in respect of which the offence was committed; and
- (c) particulars of the time, date and place at or upon which the court proposes to consider any application in relation to the forfeiture of the articles in respect of which the offence was committed.

“(6) In this regulation ‘the articles in respect of which the offence was committed’ means the gold, Australian currency, foreign currency or securities in respect of which the offence was committed.”.

\* Statutory Rules 1946, No. 191, as amended by Statutory Rules 1947, Nos. 65 and 102; 1948, Nos. 39 and 165; 1950, No. 46; 1952, Nos. 15 and 80; 1953, No. 24; 1954, No. 96; 1960, No. 8; 1965, No. 168; 1967, No. 70; 1970, No. 130; and 1973, Nos. 72 and 197.