
COMMONWEALTH BANK.

No. 18 of 1911.

An Act to provide for a Commonwealth Bank.

[Assented to 22nd December, 1911.]

BE 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 *Commonwealth Bank Act* 1911.

Commencement. 2. This Act shall commence on a day to be fixed by proclamation.

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

Parts.

- PART I.—Preliminary.
- PART II.—Establishment of the Bank.
- PART III.—Management of the Bank.
- PART IV.—General Provisions.
- PART V.—Savings Bank Business.
- PART VI.—Issue of Debentures by the Bank.
- PART VII.—Miscellaneous.

4. In this Act, unless the contrary intention appears—

Definitions.

- “the Bank” means the Commonwealth Bank of Australia established by this Act,
- “the Governor” means the Governor of the Bank.

PART II.—ESTABLISHMENT OF THE BANK.

5. A Commonwealth Bank, to be called the Commonwealth Bank of Australia, is hereby established.

Establishment of Bank.

6. The Bank shall be a body corporate with perpetual succession and a common seal, and may hold land, and may sue and be sued in its corporate name.

Incorporation of Bank.

7. The Bank shall, in addition to any other powers conferred by this Act, have power—

General powers of Bank.

- (a) to carry on the general business of banking ;
- (b) to acquire and hold land on any tenure ;
- (c) to receive money on deposit, either for a fixed term or on current account ;
- (d) to make advances by way of loan, overdraft, or otherwise ;
- (e) to discount bills and drafts ;
- (f) to issue bills and drafts, and grant letters of credit ;
- (g) to deal in exchanges, specie, bullion, gold-dust, assayed gold, and precious metals ;
- (h) to borrow money ; and
- (i) to do anything incidental to any of its powers.

8. The Bank shall not issue bills or notes of the Bank for the payment of money payable to bearer on demand and intended for circulation.

The Bank not issue Bank notes.

9.—(1.) The capital of the Bank shall be One million pounds, and shall be raised by the sale and issue of debentures in pursuance of this Act.

Capital.

(2.) The capital of the Bank shall be available for all the purposes of the Bank.

10.—(1.) The Treasurer may, out of the Consolidated Revenue Fund, which is hereby appropriated accordingly, make advances to the Bank for the purpose of enabling it to defray any of the expenses incidental to the establishment of the Bank, the opening of offices thereof for business, and the raising of sufficient capital for carrying on business.

Advance to Bank by Treasurer.

(2.) Any moneys advanced in pursuance of this section shall be repaid to the Treasurer by the Bank, together with interest at the rate of three and a half per centum per annum.

PART III.—MANAGEMENT OF THE BANK.

Management.

11. The Bank shall be managed by the Governor of the Bank.

Appointment of Governor and Deputy Governor.

12. The Governor and a Deputy Governor of the Bank shall be appointed by the Governor-General, and shall hold office during good behaviour for a period of seven years, and shall be eligible for re-appointment.

Salaries.

13.—(1.) The Governor and the Deputy Governor shall be paid such salaries and travelling expenses as are fixed by the Governor-General.

(2.) The salary of the Governor, or of the Deputy Governor, shall not be reduced during his continuance in office.

Powers and duties of Governor and Deputy Governor.

14. The Governor and the Deputy Governor shall respectively have such powers and perform such duties as are prescribed by this Act or the regulations.

Deputy Governor to exercise powers of Governor in his absence.

15. If the Governor is absent from the Commonwealth, or is absent from duty on leave, or is unable by reason of illness or other cause to perform his duty, or if any vacancy exists in the office of Governor, the Deputy Governor shall have and exercise the powers and functions of the Governor during his absence, or while the inability continues or the vacancy exists.

Appointment of officers.

16. The Governor may appoint such other officers and servants of the Bank as he thinks necessary for efficiently conducting the business of the Bank.

Officers not to borrow from Bank.

17. Officers of the Bank shall not borrow money from the Bank.

Returns to Treasurer.

18. The Governor shall furnish to the Treasurer, in accordance with the prescribed forms, quarterly statements of the assets and liabilities of the Bank and of the business of the Bank, which statements shall be published in the *Gazette*, and also such other periodical statements as are prescribed.

Audit.

19.—(1.) The affairs of the Bank shall be subject to inspection and audit by the Auditor-General for the Commonwealth.

(2.) The inspection and audit shall be conducted not less often than half-yearly, and the Auditor-General shall report to the Treasurer the result of each inspection and audit.

Half-yearly balance-sheet.

20. The Governor, at least twice in each year, shall prepare a balance-sheet in accordance with the prescribed form and submit it to the Auditor-General for report as to its correctness or otherwise, and transmit it with the report of the Auditor-General to

the Treasurer, and shall also transmit a true copy of the balance-sheet and report to the President of the Senate and to the Speaker of the House of Representatives to be laid before the Senate and the House of Representatives respectively.

PART IV.—GENERAL PROVISIONS.

- 21.** The Head Office of the Bank shall be situated in such place within the Commonwealth as the Governor thinks fit to appoint. Head office.
- 22.** The Governor may establish branches or appoint agencies of the Bank in any part of the Commonwealth or of any Territory under the Commonwealth. Establishment of branches and agencies.
- 23.** The Governor may, with the consent of the Treasurer, establish a branch in London in the United Kingdom, and may with the like consent establish branches in any other places beyond the Commonwealth. London branch.
- 24.** The Bank may, with the approval of the Treasurer, by instrument under its common seal, appoint any person (whether in the Commonwealth or in any place beyond the Commonwealth) to be the Attorney of the Bank, and any person so appointed may, subject to the instrument, do any act or execute any power or function which he is authorized by the instrument to do or execute. Power to appoint attorney.
- 25.** The Governor may arrange with any bank carrying on business in any place to act as the agent of the Bank in any place whether in or outside the Commonwealth. Agents.
- 26.** The Bank may act as the agent in Australia of any Bank carrying on business in or outside Australia. Bank may act as agent.
- 27.** Where the Bank holds any property (whether real or personal) or business as security for any advance, and the property or business falls into the hands of the Bank, the Bank may maintain repair or improve the property and carry on the business until, in the discretion of the Governor, the Bank can dispose of the property in the best interests of the Bank. Power to improve property and carry on any business.
- 28.** The common seal of the Bank shall be kept in the custody of the Governor or Deputy Governor of the Bank. Custody of seal.
- 29.** The common seal shall not be affixed to any document without the authority of the Governor. Affixing of seal.
- 30.—(1.)** The net profits derived by the Bank shall be dealt with as follows :— Disposal of profits.
- (a) one half shall be placed to the credit of a fund to be called the Bank Reserve Fund, and
 - (b) the other half shall be placed to the credit of a fund to be called the Redemption Fund.
- (2.)** The Bank Reserve Fund shall be available for the payment of any liabilities of the Bank.

(3.) The Redemption Fund may be used in repayment of any money advanced to the Bank by the Treasurer, or in the redemption of the debentures or stock issued by the Bank, but if the Fund exceeds the amount of debentures and stock in circulation the excess may be used for the purposes of the redemption of any Commonwealth debts or State debts taken over by the Commonwealth.

Execution of contracts by or on behalf of the Bank.

31. Contracts on behalf of the Bank may be made varied or discharged as follows :—

- (a) Any contract which, if made between private persons, would be by law required to be in writing under seal, may be made varied or discharged, in the name and on behalf of the Bank, in writing under the common seal of the Bank :
- (b) Any contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged therewith, may be made varied or discharged, in the name and on behalf of the Bank, in writing signed by any person acting under the express or implied authority of the Bank :
- (c) Any contract which, if made between private persons, would by law be valid although made by parol only and not reduced into writing, may be made varied or discharged by parol, in the name and on behalf of the Bank, by any person acting under the express or implied authority of the Bank :

And all contracts made according to the provisions contained in this section shall be effectual in law, and shall be binding upon the Bank and on all other parties thereto, their heirs, executors or administrators as the case may be :

Provided that nothing in this section shall invalidate any contract executed on behalf of the Bank by any duly appointed attorney of the Bank, if the contract would be valid if executed by the attorney on his own behalf.

Rules of the Bank.

32. The Governor may, with the consent of the Treasurer, make rules, not inconsistent with this Act or the regulations made by the Governor-General thereunder, for any of the following purposes :—

- (a) the good government of the Bank,
- (b) the classification of the officers of the Bank,
- (c) to provide a superannuation fund, and
- (d) any matter necessary or convenient to be provided for carrying on the business of the Bank.

Responsibility of Commonwealth for Bank.

33. The Commonwealth shall be responsible for the payment of all moneys due by the Bank.

Provided that nothing in this section shall authorize any creditor or other person claiming against the Bank to sue the Commonwealth in respect of his debt or claim.

34.—(1.) The Bank may invest any moneys held by it—

- (a) in any Government security approved by the Treasurer, or
- (b) on loan on the security of land, or
- (c) in any other prescribed manner.

Investment of Funds.

(2.) Nothing in this section shall prevent the Bank, in carrying on the business of banking, from making advances to a customer on any security which the Governor thinks sufficient.

PART V.—SAVINGS BANK BUSINESS.

35.—(1.) The Governor may establish at the head office of the Bank, and at such other places as he thinks fit, a department, branch, or agency for the receipt and repayment of deposits and the transaction generally of the business of a Savings Bank.

Establishment of Savings Bank.

(2.) Branches or agencies for Savings Bank business may be established at any place notwithstanding that the Bank has no branch or agency for general banking business at that place.

(3.) Separate accounts shall be kept by the Bank in respect of the Savings Bank business of the Bank, and for that purpose any receipts or expenditure of the Bank referable to both ordinary business and Savings Bank business shall be allotted in such proportions as the Governor thinks fit.

36. The Bank may, at any place where Savings Bank business is carried on, receive from any person, by way of Savings Bank deposit, any sum or sums of money not being less than One shilling, and shall cause the amount of the money so received to be placed to the credit of the depositor or such other person as he appoints.

Receipt of deposits.

37. No depositor shall have any claim on the Bank in respect of any Savings Bank deposit, unless the deposit has been made at the head office, or some branch or agency of the Bank open for Savings Bank business, and during the hours in which the office, branch, or agency was open for the receipt of deposits.

Deposits to be made at office.

38. Subject to the Rules of the Bank, the Bank may allow interest on any sum to the credit of a depositor, not being less than One pound, at such rate as the Governor from time to time declares.

Interest on deposits.

39.—(1.) Interest on Savings Bank deposits shall be calculated once in each year up to the thirtieth day of June, and shall be carried to the credit of the account of the depositor, and shall thereupon become principal and shall, subject to any limitation in the amount on which interest may be allowed, carry interest in all respects as other principal money deposited in the Bank.

Calculation of interest.

(2.) No fractional part of any month shall be taken into account in the calculation of interest, nor shall any interest less than One penny be added to any account.

40. A depositor shall only be entitled to withdraw moneys, standing to his credit in connexion with the Savings Bank business of the Bank, after notice of withdrawal has been given by him in accordance with the Rules of the Bank.

Notice of withdrawal by depositors.

Infant may
make deposits.

41. The Bank may receive Savings Bank deposits from or for the use or benefit of any person under the age of twenty-one years ; and the Bank may pay to an infant, when and after he has attained the age of twelve years, or appears to the officer making the payment to have attained that age, any moneys standing to his credit in the Bank, in the manner and upon the conditions appointed in the case of other Savings Bank depositors, and the receipt of the money by the infant shall be a sufficient discharge to the Bank.

Married women's
deposits.
Cf. W.A. 1906,
No. 9, s. 13.

42. Every Savings Bank deposit in the name of a woman, whether made before or after her marriage, shall, as against her husband and persons claiming through or under him, be deemed to be her separate property and to belong to her in her own right as if she were a *femme sole*.

Deposits by
trustees.
Cf. W.A. 1906,
No. 9, s. 14.

43. Deposits by way of Savings Bank deposits may be received from any person (in this section called the trustee) who declares himself willing to act as trustee for any other person, whether that person is under a disability or not, and the receipt of the trustee shall, in relation to the deposit and the interest thereon, be a discharge to the Bank, but the Governor may, if he thinks fit, require the signature of both the trustee and the *cestui que* trust before any repayment is made.

Payment out of
deposits not
exceeding £100
in case of death
of depositor.
Cf. W.A. 1906,
No. 9, s. 19.

44.—(1.) Where a person dies leaving any money deposited with the Bank by way of Savings Bank deposit to an amount not exceeding One hundred pounds and probate of his will or letters of administration of his estate are not produced to the Bank, or notice in writing of the existence of a will and of intention to prove it or to take out letters of administration is not given to the Bank, within two months after the death of the depositor, the Bank may, if the Governor thinks fit, apply the money—

- (a) in payment of the funeral expenses of the deceased, and
- (b) in paying the balance to the widow or some relation of the deceased.

(2.) No person shall have any claim against the Bank in respect of any payment made in pursuance of this section, but nothing in this section shall relieve the person receiving the money from any liability to account for or apply the money in accordance with law.

Payments under
probates or
letters of
administration.
Cf. W.A. 1906,
No. 9, s. 21.

45. Payment of any money deposited with the Bank by way of Savings Bank deposit and standing in the name of a deceased depositor to any person having probate of the will of the depositor or letters of administration of his estate appearing to be in force shall be a good discharge to the Bank, but nothing in this section shall relieve the person receiving the money from any liability to account for or apply the money in accordance with law.

Payment on
death of
illegitimate
depositor.
Cf. W.A. 1906
No. 9, s. 22.

46. Where a person, being illegitimate, dies intestate leaving any money deposited with the Bank by way of Savings Bank deposit, the Bank may pay the money to such natural relative of the deceased as in the opinion of the Governor has the best claim thereto.

47. Where a person, having any money deposited with the Bank by way of Savings Bank deposit, becomes insane or otherwise incapacitated to act, and his insanity or incapacity is proved to the satisfaction of the Governor, and the Governor is satisfied of the urgency of the case, the Governor may authorize the payment of the money to the credit of the depositor to any person he thinks proper, and the receipt of that person shall be a good discharge to the Bank.

Insanity or incapacity of depositor.
Cf. W.A. 1906, No. 9, s. 23.

48. Subject to the rules of the Bank, deposits by way of Savings Bank deposit may be received by the Bank from any local authority, friendly society, co-operative society, or any society or club (not being an incorporated or unincorporated company or other body engaged in or formed for the purpose of trading or of acquiring pecuniary profit or other gain) and the receipt of the treasurer of the local authority, society, or club, or of an officer of the local authority, society, or club authorized in that behalf, shall, in relation to the deposit and any interest thereon, be a discharge to the Bank.

Deposits by Societies.
Cf. S.A. 1903, No. 824, s. 15.

49. An incorporated or unincorporated company or other body engaged in or formed for the purpose of trading or of acquiring pecuniary profit or other gain shall not be entitled to make any deposit with the Bank by way of Savings Bank deposit or to receive any interest on any deposit of that nature.

Trading companies not to make deposits.
Cf. S.A. 1903, No. 824, s. 12.

50.—(1.) Each depositor shall once in each year produce his Savings Bank deposit book to the Bank for examination and verification with the books of the Bank at such times and places as the Board from time to time appoints.

Deposit books to be produced for inspection.
Cf. Vic. 1890, No. 1133, s. 43.

(2.) Notice of the times and places at which depositors' deposit books are to be produced shall be given in accordance with the rules of the Bank.

51.—(1.) All moneys to the credit of a depositor's Savings Bank account (not being a deposit on behalf of a minor) which has not been operated upon, either by addition or withdrawal, for a period of seven years and upwards shall be carried to an account to be called the Depositors' Unclaimed Fund, and shall cease to bear interest.

Unclaimed deposits.
Cf. W.A. 1906, No. 9, ss. 32, 33.

(2.) The Governor may, on proof to his satisfaction that any person is entitled to any money which has been carried to the credit of the Depositors' Unclaimed Fund, direct payment thereof to him, and his receipt shall be a good discharge to the Bank.

(3.) A list of the amounts carried to the Depositors' Unclaimed Fund and not claimed shall be published annually in the *Gazette*.

(4.) All moneys in respect of which a claim is not established within ten years after having been included in any published list shall cease to be claimable, and shall become the absolute property of the Bank, but the Governor may, with the consent of the Treasurer, allow any claim after that period has expired, if he is satisfied that special reasons exist for the allowance of the claim.

Commonwealth
officers may act
as agents.

52.—(1.) The Governor may arrange with the Minister administering any Department of the Commonwealth for any officer of the Department to act as agent of the Bank for the transaction of Savings Bank business.

(2.) Any officer acting as agent of the Bank in pursuance of this section shall be deemed to be an officer of the Bank.

PART VI.—ISSUE OF DEBENTURES BY THE BANK.

Issue of
debentures.

53. The Bank may from time to time issue debentures to such amount as it thinks necessary, but so that the total amount thereof current at any one time shall not exceed One million pounds.

Form of
debentures.

54. Debentures shall be in accordance with the prescribed form, and shall be under the common seal of the Bank, and shall be signed and countersigned as prescribed.

Interest and
period of
debentures.

55.—(1.) Debentures shall be for Ten pounds or some multiple thereof, and shall bear interest at a rate to be fixed by the Bank before the issue thereof.

(2.) Debentures shall be redeemable at par at such time or times as are specified therein, being—

- (a) on a fixed date ; or
- (b) after a fixed date on twelve months' notice given by the Bank in the prescribed manner ; or
- (c) between fixed dates on twelve months' notice given by the Bank in the prescribed manner.

Commonwealth
guarantee.

56. The Commonwealth by this Act guarantees the payment by the Bank of the principal and interest due in respect of any debenture issued by the Bank in pursuance of this Act, and the Consolidated Revenue Fund is hereby appropriated for the purpose of this section.

Negotiability of
debentures.

57.—(1.) Every debenture issued in pursuance of this Act shall be payable to the bearer thereof, and shall pass by delivery only without any assignment or indorsement, and the bearer of a debenture shall have the same rights and remedies as if he were expressly named therein.

(2.) At the request of the bearer of a debenture the Bank may in lieu thereof issue to him inscribed stock of the same currency, and bearing the same interest, and transferable only in manner prescribed.

(3.) At the request of the holder of any inscribed stock of the Bank, the Bank may in lieu thereof issue to him debentures of the same currency and bearing the same interest.

Sale of
debentures.

58. The Bank may sell debentures, or cause them to be sold, at such times and at such places and in such sums and on such conditions as the Treasurer approves.

Forgery of
securities.

59.—(1.) Any person who, with intent to defraud—

- (a) forges any security of the Bank, or
- (b) utters any forged security of the Bank, or
- (c) makes any instrument for forging any security of the Bank, or
- (d) has in his possession any such instrument, or

(e) has in his possession any forged security of the Bank, shall be guilty of an indictable offence.

Penalty : Imprisonment for ten years.

(2.) Any person who, without authority, proof whereof shall lie upon him—

(a) makes any form of security of the Bank,

(b) has in his possession any form of security of the Bank, or

(c) makes or has in his possession any instrument or thing by which any distinctive mark or signature on any security of the Bank may be made or imitated,

shall be guilty of an offence.

Penalty : Imprisonment for two years.

(3.) In this Part of this Act, security of the Bank means any Bank debenture, Bank inscribed stock, or any coupon, warrant or document for the payment of interest thereon, and includes any transfer of any Bank inscribed stock, and any indorsement of any coupon, warrant or document for the payment of interest on any security of the Bank.

60. All forged securities of the Bank, and all unauthorized forms of security of the Bank, and all unauthorized instruments and things by which any distinctive mark or signature on any security of the Bank, may be unlawfully made or imitated, shall be forfeited to the King and may be seized by any member of the police force of the Commonwealth or of a State.

PART VII.—MISCELLANEOUS.

61. Any officer of the Bank who fraudulently and in breach of his duty—

(a) makes any false entry in any book, record, or document, or

(b) omits to make any entry in any book, record, or document,

or

(c) by act or omission falsifies any book, record, or document, or

(d) destroys or damages any book, record, or document, or

(e) furnishes any false return or statement of any money or property, or

(f) omits to furnish any return or statement of any money or property,

shall be guilty of an indictable offence.

Penalty : Imprisonment for seven years.

62. Any officer of the Bank who steals, or fraudulently misappropriates, or fraudulently converts to his own use any money or property of the Bank shall be guilty of an indictable offence.

Penalty : Imprisonment for seven years.

63. The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for making provision for the issue, inscription, transfer, transmission, and redemption of inscribed stock of the Bank, and all matters incidental thereto.