

## COMMONWEALTH BANK.

### No. 13 of 1943.

## An Act to amend the *Commonwealth Bank Act* 1911-1932, and for other purposes.

[Assented to 20th March, 1943.]

**B**E it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

Short title  
and citation.

1.—(1.) This Act may be cited as the *Commonwealth Bank Act* 1943.

(2.) The *Commonwealth Bank Act* 1911-1932\* is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Commonwealth Bank Act* 1911-1943.

Commencement.

2. This Act shall commence on a date to be fixed by Proclamation.

Parts.

3. Section three of the Principal Act is amended by inserting after the words "Part VIB.—Rural Credits Department." the words "Part VIC.—Mortgage Bank Department."

Profits of  
Bank—how  
dealt with.

4. Section thirty of the Principal Act is amended—

(a) by omitting from sub-section (1.) the word "The" (first occurring) and inserting in its stead the words "Subject to the next succeeding sub-section, the";

(b) by omitting paragraph (a) of sub-section (1.) and inserting in its stead the following paragraphs:—

"(a) One-quarter shall be placed to the credit of a fund to be called the Bank Reserve Fund;

"(aa) One-quarter shall be paid to the Mortgage Bank Department; and"; and

(c) by inserting after sub-section (1.) the following sub-section:—

"(1A.) When the capital of the Mortgage Bank Department has reached the sum of Four million pounds any amount which, but for this sub-section, would be paid to that Department shall be placed to the credit of the Bank Reserve Fund."

Disposal of  
profits.

5. Section sixty J of the Principal Act is amended—

(a) by omitting from paragraph (b) the word "and"; and

(b) by inserting after that paragraph the following paragraph:—

"(ba) in making payments to the Mortgage Bank Department at the rate of One hundred and fifty

\* Act No. 18, 1911, as amended by No. 24, 1914; No. 43, 1920; No. 15, 1924; No. 16, 1925; No. 36, 1927; No. 31, 1929; No. 6, 1931; and No. 16, 1932.

thousand pounds per annum, but no payment shall be made under this paragraph of an amount which would have the effect of increasing the capital of that Department to more than Four million pounds; and ”.

6. Section sixty κ of the Principal Act is amended by adding at the end thereof the following sub-section :— Gold reserve.

“ (5.) The sum of One million pounds shall, by force of this sub-section, be transferred from the special reserve account referred to in the last preceding sub-section to the Mortgage Bank Department.”.

7. After Part VI B. of the Principal Act the following Part is inserted :—

“ PART VI C.—MORTGAGE BANK DEPARTMENT.

“ 60ABQ. For the purposes of this Part, there shall be a Mortgage Bank Department of the Bank which shall be kept distinct from all other Departments of the Bank. Establishment of Mortgage Bank Department.

“ 60ABR. The capital of the Mortgage Bank Department shall be the aggregate, not exceeding Four million pounds, of the following amounts :— Capital of Department.

- (a) the sum of One million pounds transferred from the special reserve account in pursuance of sub-section (5.) of section sixty κ of this Act ;
- (b) the amounts paid to the Mortgage Bank Department from the net profits of the Bank ; and
- (c) the amounts paid to the Mortgage Bank Department from the profits derived from the issue of Australian notes.

“ 60ABS.—(1.) The Bank may make advances to the Mortgage Bank Department of such amounts, and subject to such terms and conditions, as the Board determines, but so that the total amount of such advances not repaid shall not at any time exceed One million pounds. Advances to Department by Bank and Savings Bank.

“ (2.) The Savings Bank may make advances to the Mortgage Bank Department of such amounts, and subject to such terms and conditions, as the Commission or, until the Commission is appointed, as the Board, determines.

“ 60ABT. The funds of the Bank and of the Savings Bank shall not be used in the business of the Mortgage Bank Department except as expressly provided in this Act. Funds of Bank not to be used except in accordance with Act.

“ 60ABU.—(1.) The Treasurer may make advances to the Mortgage Bank Department of such amounts, and subject to such terms and conditions, as are agreed upon between the Treasurer and the Bank. Advances by Treasurer.

“(2.) The Treasurer may from time to time, under the provisions of the *Commonwealth Inscribed Stock Act 1911-1940*, borrow money for the purpose of making advances to the Mortgage Bank Department under this section.

“(3.) The Bank shall pay to the Treasurer half-yearly out of the funds of the Mortgage Bank Department interest on advances made in pursuance of this section and not repaid—

- (a) in the case of advances made from money borrowed under the last preceding sub-section—at the rate or rates equivalent to the effective rate or rates of interest payable by the Commonwealth on money so borrowed; and
- (b) in any other case—at such rate as is agreed upon between the Treasurer and the Bank.

“(4.) For the purposes of the last preceding sub-section, the effective rate or rates of interest payable by the Commonwealth on money borrowed in pursuance of sub-section (2.) of this section shall be such rate or rates as is or are certified in writing by the Auditor-General as being the effective rate or rates of interest payable by the Commonwealth on loans raised by the Treasurer out of which those advances were made, or on any conversion or renewal of any such loan.

“(5.) Where the Bank is unable to employ profitably in the Mortgage Bank Department any money advanced to that Department by the Treasurer under sub-section (1.) of this section, the Bank may from time to time repay to the Treasurer any sum not less than Fifty thousand pounds. Any sum so paid shall be applied proportionately in reduction of the several advances then outstanding.

Loans and  
advances by  
Mortgage  
Bank  
Department.

“60ABV.—(1.) Subject to this Part, loans may be made by the Bank through the Mortgage Bank Department to any person engaged in farming, agricultural, horticultural, pastoral or grazing operations, or in such other form of primary production as the Bank thinks fit, upon the security of a mortgage to the Bank of an estate or interest in land in the Commonwealth used or to be used primarily for farming, agricultural, horticultural, pastoral or grazing operations or in such other form of primary production as the Bank thinks fit.

“(2.) The estate or interest in land which may be the security for a mortgage to the Bank under the last preceding sub-section shall be—

- (a) an estate in fee-simple in land;
- (b) any estate or interest in land held under any State Act relating to Crown lands; or

(c) any estate or interest in land held from the Crown or the Administration in any Territory being part of the Commonwealth.

“(3.) No loan shall be made under this section upon the security of a mortgage of any estate or interest in land which is subject to a prior mortgage or charge (other than a mortgage to the Bank to secure a loan made under this section or a statutory charge to the Commonwealth, a State, the Administration in any Territory being part of the Commonwealth, or to any statutory authority of the Commonwealth, of a State or of any such Administration) unless the prior mortgage or charge is discharged out of the money lent or otherwise.

“(4.) Except to the extent that any money lent under this section is used to discharge a prior mortgage or charge, any money so lent shall be used by the borrower in connexion with his farming, agricultural, horticultural, pastoral or grazing operations, or in connexion with such other form of primary production as the Bank thinks fit, and where any money so lent is not used for any such purpose, the money lent, together with the interest thereon shall, at the option of the Bank, become due and payable on demand, and, after the exercise of the option, interest shall accrue from day to day.

“(5.) The owner of any estate or interest in land upon the security of which a loan has been made under this section shall not, without the consent in writing of the Bank, mortgage or charge the estate or interest in land upon the security of which the loan was made.

“60ABW. Subject to this Part, a loan made under this Part shall be on such terms and conditions as the Bank determines.

Terms and conditions of loans.

“60ABX. A loan under this Part shall not be made for a period of less than five years or more than forty-one years.

Period of loans.

“60ABY. The amount of any loan under this Part, or, if there are two or more such loans to any one person or to persons jointly, the aggregate amount of those loans, shall not exceed seventy per centum of the value (as determined by the Bank) of the estate or interest in land on which the loan or loans are secured, or Five thousand pounds, whichever is the less.

Amount of loan.

“60ABZ.—(1.) A mortgage given as security for repayment of a loan under this Part shall provide for the payment of equal half-yearly instalments of principal and interest and for the payment, at the end of the period of the loan, of the balance (if any) then outstanding.

Loans repayable by periodical instalments.

“(2.) The amount of each such instalment shall be a sum equal to six months' interest on the original amount of the loan together with an amount not less than one-half of one per centum of the original amount of the loan.

Repayment of  
loans before  
maturity.

“ 60ABAA.—(1.) A person indebted to the Bank in respect of a loan made under this Part may, at any time after the expiration of five years from the date of the mortgage, repay the balance of the loan then outstanding and any such person may, at any time before the expiration of that period, but subject to compliance with such terms and conditions as the Bank thinks fit, repay the balance of the loan then outstanding.

“ (2.) A person indebted to the Bank in respect of a loan made under this Part may, at any time, pay to the Bank any portion of the loan (being Ten pounds or a multiple thereof) and the Bank shall credit to that person, half-yearly, interest on the amounts so paid at the rate of interest payable under the mortgage.

“ (3.) Interest so credited shall bear interest in the same manner as payments made under the last preceding sub-section.

“ (4.) Any payment made under sub-section (2.) of this section shall not affect the obligations of the person concerned to pay the half-yearly instalments of principal and interest or other payments to be made under the mortgage.

“ (5.) The Bank may, at its discretion, and from time to time, apply any money paid under sub-section (2.) of this section, or any interest credited under this section, in reduction of the loan or in or towards payment of any money due under the mortgage.

“ (6.) A person shall not, during the currency of the loan, be entitled to receive from the Bank payment of any amount paid under sub-section (2.) of this section, or of any interest credited under this section, but when the amounts so paid, together with interest so credited, after deduction of any amount applied under the last preceding sub-section, are sufficient to pay the amount owing to the Bank under the mortgage, the Bank shall apply so much thereof as is necessary in payment of that amount and shall account to the mortgagor for any surplus.

Provisions  
where  
mortgaged land  
transferred, &c.

“ 60ABAB.—(1.) Where any estate or interest in land which is the subject of a mortgage given in respect of a loan under this Part is—

(a) without the consent in writing of the Bank, transferred, conveyed, assigned, surrendered or otherwise dealt with or disposed of to : or

(b) becomes by operation of law or otherwise vested in,

any person other than the mortgagor, the balance of the loan then remaining unpaid shall, at the option of the Bank, which may be exercised at any time, become due and payable immediately upon the exercise of the option and be recoverable with the interest thereon and that interest shall accrue thereafter from day to day.

“(2.) Any consent of the Bank under paragraph (a) of the last preceding sub-section may be either unconditional or subject to such conditions as the Bank thinks fit, and, where any condition subject to which consent was given is not complied with, the balance of the loan then remaining unpaid shall, at the option of the Bank, which may be exercised at any time, become due and payable immediately upon the exercise of the option and be recoverable with interest thereon and that interest shall accrue thereafter from day to day.

“60ABAC. The net profits of the Mortgage Bank Department shall be credited to a Fund to be called the ‘Mortgage Bank Department Reserve Fund’.

Profits of  
Department.

“60ABAD. The Board may allot to the Mortgage Bank Department such portion of the general receipts and expenditure of the Bank as is, in the opinion of the Board, referable to the Department.

Bank's receipts  
and expenditure  
in relation to  
Department.

“60ABAE. Any surplus funds in the Mortgage Bank Department may be invested—

Investmen  
funds.

- (a) in any security issued by the Government of the Commonwealth, of the United Kingdom or of any other part of the King's dominions, or in any security issued or guaranteed by any authority constituted by any Act or State Act;
- (b) on fixed deposit with the Bank; or
- (c) in any other prescribed manner.

“60ABAF. The Bank may, with the consent of the Treasurer, enter into an agreement with any authority of a State or with any Savings Bank for the performance by the authority or Savings Bank of such of the functions of the Bank under this Part as are specified in the agreement.”.

Arrangements  
with State  
authorities.

8.—(1.) Any Part or section of the Principal Act, as amended by the foregoing provisions of this Act, the number of which is specified in the column headed “Existing Number” in the First Schedule to this Act, is re-numbered as specified opposite to that number in the next succeeding column headed “New Number” in that Schedule.

Renumbering.

(2.) Any reference in any law of the Commonwealth or of any Territory of the Commonwealth, or in any instrument or document, to any Part or section of the Principal Act shall, if that Part or section has been re-numbered in pursuance of this section, be read as a reference to that Part or section as so re-numbered.

9. The sections of the Principal Act, as amended by the foregoing provisions of this Act (other than the provisions of the last preceding section), which are specified in the first column of the Second Schedule to this Act are amended as respectively specified opposite thereto in the second column of that Schedule.

Consequential  
amendments.

## THE SCHEDULES.

Section 8.

## FIRST SCHEDULE.

Existing Number.	New Number.	Existing Number.	New Number.	Existing Number.	New Number.
Section No.—	Section No.—	Section No.—	Section No.—	Section No.—	Section No.—
7A	8	35N	66	60V	119
7B	9	35P	67	60V	120
7C	10	35Q	68	60W	121
7D	11	35R	69	60X	122
7E	12	35S	70	60Y	123
8	13	35T	71	60Z	124
9	14	35U	72	60AA	125
9A	15	35V	73	60AB	126
10	16	35W	74	Part No.—	Part No.—
11	17	36	75	VIIb.	VIII.
12	18	37	76	Section	Section
12A	19	38	77	No.—	No.—
12B	20	39	78	60ABA	127
13	21	40	79	60ABB	128
14	22	41	80	60ABO	129
15	23	42	81	60ABD	130
15A	24	43	82	60ABE	131
15B	25	44	83	60ABF	132
15O	26	45	84	60ABG	133
15D	27	46	85	60ABH	134
15E	28	47	86	60ABI	135
16	29	48	87	60ABJ	136
16A	30	49	88	60ABK	137
16B	31	50	89	60ABL	138
17	32	51	90	60ABM	139
18	33	52	91	60ABN	140
19	34	53	92	60ABO	141
20	35	54	93	60ABP	142
20A	36	55	94	Part No.—	Part No.—
21	37	56	95	Vic.	IX.
22	38	57	96	Section	Section
23	39	58	97	No.—	No.—
24	40	58A	98	60ABQ	143
25	41	59	99	60ABR	144
26	42	60	100	60ABS	145
27	43			60ABT	146
28	44	Part No.—	Part No.—	60ABU	147
29	45	VIA.	VII.	60ABV	148
29A	46	Section	Section	60ABW	149
30	47	No.—	No.—	60ABX	150
31	48	60A	101	60ABY	151
32	49	60B	102	60ABZ	152
33	50	60C	103	60ABAA	153
34	51	60F	104	60ABAB	154
34A	52	60G	105	60ABAC	155
35	53	60H	106	60ABAD	156
35A	54	60I	107	60ABAE	157
35B	55	60J	108	60ABAF	158
35O	56	60K	109	Part No.—	Part No.—
35D	57	60L	110	VII.	X.
35E	58	60M	111	Section	Section
35F	59	60N	112	No.—	No.—
35G	60	60O	113	60AG	159
35H	61	60OA	114	60AD	160
35J	62	60Q	115	61	161
35K	63	60R	116	62	162
35L	64	60S	117	62A	163
35M	65	60T	118	63	164

THE SCHEDULES—*continued.*

## SECOND SCHEDULE.

Section 9.

FIRST COLUMN. Sections.	SECOND COLUMN. Amendments.
Section 3 .. ..	Omit " Part VIa.", insert " Part VII." Omit " Part VIb.", insert " Part VIII." Omit " Part VIc.", insert " Part IX." Omit " Part VII.", insert " Part X."
Section 35E .. ..	Omit " 35F to 35N ", insert " fifty-nine to sixty-six ".
Section 52.. ..	Omit " sixteen B to twenty (inclusive), twenty-seven to twenty-nine (inclusive), thirty-one to thirty-three (inclusive), thirty-four A, fifty-three to sixty (inclusive), sixty-one and sixty-two ", insert " thirty-one to thirty-five (inclusive), forty-three to forty-five (inclusive), forty-eight to fifty (inclusive), fifty-two, ninety-two to one hundred (inclusive), one hundred and sixty-one and one hundred and sixty-two ".
Section 60i .. ..	Omit from sub-section (1.) " sixty K ", insert " one hundred and nine ".
Section 60k .. ..	Omit from sub-section (4.) " sixty J ", insert " one hundred and eight ".
Section 60z .. ..	Omit from sub-section (3.) " sixty AA ", insert " one hundred and twenty-five of this Act ".
Section 60ABK .. ..	Omit " sixty ABi ", insert " one hundred and thirty-five ".
Section 60ABR .. ..	Omit " sixty K ", insert " one hundred and nine ".
Section 63.. ..	Omit " thirty-five w ", insert " seventy-four ".