

1992

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

BANKING LEGISLATION AMENDMENT BILL 1992

SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments and New Clauses to be Moved on Behalf of the Government

(Circulated by authority of the Treasurer, the Hon. John Dawkins MP)



Clause 1: Amendment to Section 69 of the Banking Act 1959

The purpose of this amendment is to reduce the amount of information which banks must provide in relation to unclaimed moneys. Section 69 of the Banking Act 1959 contains the unclaimed moneys provisions applying to banks. Currently sub-section 69(4) requires that the annual statement of all sums of unclaimed moneys of not less than \$100 contain information by which accounts may be identified, including "if the shareholder, depositor or creditor is known to the bank to be dead - the name and address, so far as they are known to the bank, of his or her legal representative".

Since the Banking Act 1959 requires that banks be responsible for verifying the bona fides of claimants, the Government only needs sufficient information to enable it to ascertain whether the moneys in question have been transferred to the Commonwealth pursuant to Section 69. In practice, the name of a solicitor acting on behalf of the estate of a deceased person in dealing with claims is not required.

Clause 2: Amendment to Section 128 of the Commonwealth Banks Act 1959

This clause amends Section 128 of the Commonwealth Banks Act 1959 which protects the use of certain trading names of the Commonwealth Bank of Australia (CBA), such as Commonwealth Bank of Australia and State Bank of Victoria, for business activities. The clause adds the names "Commonwealth Savings Bank", "Commonwealth Savings Bank of Australia" and "CSB" (the CSB names) to the list of names protected by Section 128 of the Commonwealth Banks Act 1959.

This amendment to the Commonwealth Banks Act 1959 is necessitated by the integration of the Commonwealth Savings Bank (CSB) into the Commonwealth Bank of Australia on 1 January 1993, which means that the CSB ceases to exist as a body under the Commonwealth Banks Act 1959. (This is facilitated by the Bank Integration Act 1991, which provides the means for the savings bank arm of a banking group to integrate into the trading bank arm of the group. All the banks in Australia are currently going through the process of integrating their savings and trading bank arms.) The Bank Integration Act 1991 provides protection of the CSB names to 1 July 1993.

The amendment will prohibit persons other than the CBA from using the CSB names for business activities beyond 1 July 1993. In particular, it will prevent the possibility of unscrupulous persons soliciting investments from unsuspecting members of the public by using the considerable goodwill and history attached to the CSB names. It is important that CBA customers, who recognise the goodwill associated with the CSB names, are not misled in any way by an unrelated organisation seeking to exploit the CSB names.

Another reason for the amendment is that the CBA may not have the same level of protection for the CSB names under common law as do other proprietary names. This is because the word "Commonwealth" has more general public use, for example, national and geographic use.

Finally, to gain protection under business names legislation an organisation must intend to carry-on a business under that name. As the CBA does not intend to use the CSB names to carry on a business, the CBA could not protect the CSB names by this means.

Clause 3: Change of name

This clause changes the name "Chase Manhattan Bank Limited" listed in the schedule on page 10 of the Banking Legislation Amendment Bill to "Chase Manhattan Bank Australia Limited". This corrects an error in the Bill.