

Commonwealth Banks

No. 144 of 1968

An Act to amend the *Commonwealth Banks Act* 1959–1966 in relation to the Conditions of Service of the Holders of certain Statutory Offices and in relation to the Commonwealth Banking Corporation Service and to repeal section 54 of that Act.

[Assented to 9 December 1968]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

- 1.—(1.) This Act may be cited as the *Commonwealth Banks Act* 1968. Short title and citation.
(2.) The *Commonwealth Banks Act* 1959–1966* 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 Banks Act* 1959–1968.
- 2.—(1.) Subject to the next succeeding sub-section, this Act shall come into operation on the day on which it receives the Royal Assent. Commencement.
(2.) Section 6 of this Act shall come into operation on the first day of January, One thousand nine hundred and sixty-nine.
3. Section 25 of the Principal Act is amended by omitting paragraph (c) of sub-section (1.) and inserting in its stead the following paragraph:—
“(c) hold office subject to good behaviour and in accordance with such other terms and conditions as, subject to this Act, the Governor-General determines.” Managing Director and Deputy Managing Director of Corporation.
4. Section 33 of the Principal Act is amended by omitting paragraph (b) of sub-section (2.) and inserting in its stead the following paragraph:—
“(b) holds office subject to good behaviour and in accordance with such other terms and conditions as, subject to this Act, the Governor-General determines.” General Manager of Trading Bank.
5. Section 45 of the Principal Act is amended by omitting paragraph (b) of sub-section (2.) and inserting in its stead the following paragraph:—
“(b) holds office subject to good behaviour and in accordance with such other terms and conditions as, subject to this Act, the Governor-General determines.” General Manager of Savings Bank.
6. Section 54 of the Principal Act is repealed. Bills of exchange, &c., not liable to stamp duty.

* Act No. 5, 1959, as amended by No. 75, 1961; No. 3, 1962; No. 57, 1963; No. 132, 1965; and Nos. 58 and 93, 1966.

General
Manager of
Development
Bank.

7. Section 78 of the Principal Act is amended by omitting paragraph (b) of sub-section (2.) and inserting in its stead the following paragraph:—

“(b) holds office subject to good behaviour and in accordance with such other terms and conditions as, subject to this Act, the Governor-General determines.”.

Appointment
of persons
without
examination.

8. Section 96 of the Principal Act is amended by inserting in sub-section (2.), after the word “Director”, the words “or the Deputy Managing Director”.

Selection of
officers for
promotion.

9. Section 99 of the Principal Act is amended—

(a) by omitting from paragraph (a) of sub-section (2.) the word “and” (last occurring); and

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

“(aa) ‘war service’ includes ‘Defence service’ as defined by sub-section (1.) of section six of the *Defence (Re-establishment) Act 1965–1968*; and”.

Employment
of married
women.

10. Section 104 of the Principal Act is repealed.

Retirement,
&c., on
grounds of
inefficiency,
incapacity, &c.

11. Section 106 of the Principal Act is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“(1.) If an officer appears to the Corporation to be inefficient or incompetent, or unfit to discharge or incapable of discharging the duties of his position, the Corporation may—

(a) retire him from the Service; or

(b) do any one or more of the following things:—

(i) transfer him to some other position in the Service;

(ii) reduce his salary;

(iii) determine that he be not granted, or be not granted until the expiration of a specified period, the whole, or such part as the Corporation specifies, of a specified increase in salary (including an increase by way of an increment in a range of salary applicable in relation to his position) that would otherwise be granted to him.”.

12. Section 107 of the Principal Act is repealed and the following section inserted in its stead:—

Disciplinary
action for
misconduct.

“107.—(1.) Where, after inquiry as directed by the Corporation, it is found that an officer has been guilty of misconduct, the Corporation may—

(a) dismiss him from the Service; or

(b) do any one or more of the following things:—

(i) transfer him to some other position in the Service;

(ii) reduce his salary;

- (iii) determine that he be not granted, or be not granted until the expiration of a specified period, the whole, or such part as the Corporation specifies, of a specified increase in salary (including an increase by way of an increment in a range of salary applicable in relation to his position) that would otherwise be granted to him.

“(2.) In an inquiry for the purposes of the last preceding sub-section, a formal hearing is not required but the officer shall be informed of the nature of the alleged misconduct and given an opportunity of furnishing a statement in relation to the matters alleged to constitute the misconduct.

“(3.) Where—

- (a) the Corporation is inquiring into alleged misconduct by an officer; or
- (b) an officer has been charged with having committed an offence against the law of the Commonwealth, of a State or of a Territory of the Commonwealth, punishable either on indictment or on summary conviction, and it appears to the Corporation that the act or omission alleged to constitute the offence is such as to constitute misconduct by the officer,

the Corporation may suspend the officer from duty.

“(4.) Subject to the next succeeding sub-section, where the Corporation suspends an officer from duty under the last preceding sub-section, the officer shall not be paid his salary during the period of the suspension.

“(5.) The Corporation may, in its discretion, determine that the officer—

- (a) be paid his salary during the period of the suspension;
- (b) be paid his salary during such part of the period of the suspension as the Corporation specifies; or
- (c) be paid such part of his salary as the Corporation specifies during the period of the suspension or during such part of that period as the Corporation specifies.

“(6.) Where the Corporation has suspended an officer from duty under sub-section (3.) of this section, the Corporation may at any time remove the suspension.

“(7.) Where—

- (a) after inquiring into alleged misconduct by an officer who has been suspended from duty under sub-section (3.) of this section, the Corporation is not satisfied that the officer has been guilty of misconduct; or
- (b) upon the hearing by a court of the charge against an officer referred to in paragraph (b) of sub-section (3.) of this section who has been

suspended from duty under that sub-section the officer does not plead guilty, and is not found guilty, of the offence with which he was charged or of another offence that appears to the Corporation to be such as to constitute misconduct by the officer, or the charge against such an officer is not proceeded with,
the Corporation shall, if it has not already done so, remove the suspension.

“(8.) Where—

- (a) an officer has been suspended from duty under sub-section (3.) of this section;
 - (b) an amount of salary that would otherwise have been paid to the officer during the period of the suspension was not paid to him; and
 - (c) the Corporation removes the suspension,
- the officer shall, subject to the next succeeding sub-section, be paid that amount of salary.

“(9.) Where the Corporation is satisfied that an officer to whom the last preceding sub-section applies has engaged in paid employment or work during the period of his suspension, the amount payable to him under that sub-section shall be reduced by an amount equal to the total amount of the earnings that the Corporation is satisfied were received or are receivable by him in respect of that employment or work.

“(10.) For the purposes of this section, an officer shall be taken to have been guilty of misconduct if, and only if—

- (a) he has wilfully disobeyed or disregarded an order applicable to him as an officer and given by a person having authority to give the order;
- (b) he has been negligent or careless in the discharge of his duties;
- (c) he has been inefficient or incompetent by reason of causes within his own control;
- (d) he has used intoxicating liquor or drugs to excess;
- (e) he has been guilty of any disgraceful or improper conduct, whether as an officer or otherwise;
- (f) he has committed a breach of the terms and conditions upon which he holds office;
- (g) having made and subscribed an oath or affirmation under sub-section (1.) of section ninety of this Act, he has done or said anything in violation of that oath or affirmation; or
- (h) he has, whether before or after becoming an officer, wilfully supplied to the Corporation, to an officer of the Corporation or to any other person acting on behalf of the Corporation incorrect or misleading information in connexion with his appointment to the Service.”.

13.—(1.) Section 108 of the Principal Act is amended by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-sections:—

“(1.) Where, under section one hundred and six or sub-section (1.) of section one hundred and seven of this Act—

- (a) an officer is retired, dismissed or transferred or has his salary reduced; or
- (b) the Corporation determines that an officer be not granted, or be not granted until the expiration of a specified period, the whole or a part of an increase in salary,

the officer may appeal to the Disciplinary Appeal Board.

“(2.) The regulations may prescribe the manner in which, and the time within which, appeals may be made under this section and the manner in which the hearing of appeals so made shall be conducted and may include provision for or in relation to the summoning of witnesses, the production of documents, the taking of evidence on oath or affirmation and the administering of oaths or affirmations.”.

(2.) All regulations made, or purporting to have been made, under the *Commonwealth Banks Act* 1959 for the purposes of sub-section (2.) of section 108 of that Act shall be deemed to have been at all times, and to be, as valid and effectual as if made under the Principal Act as amended by this Act.

14. Section 111 of the Principal Act is amended by omitting from sub-section (3.) the words “One thousand dollars” and inserting in their stead the words “One thousand five hundred dollars”.

Appeals.

Borrowing
by officers.