



ANNO TRICESIMO TERTIO

ELIZABETHAE II REGINAE

A.D. 1984

No. 27 of 1984

An Act to amend the State Bank of South Australia Act, 1983.

[Assented to 10 May 1984]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title.

1. (1) This Act may be cited as the "State Bank of South Australia Act Amendment Act, 1984".

(2) The State Bank of South Australia Act, 1983, is in this Act referred to as "the principal Act".

Amendment of
s. 4—
Repeal and
transitional
provisions.

2. Section 4 of the principal Act is amended by inserting in subsection (2) before the word "schedule" the word "first".

Amendment of
s. 17—
Appointment of
officers.

3. Section 17 of the principal Act is amended by inserting after subsection (2) the following subsection:

(3) The provisions of the second schedule to this Act (which are incorporated with, and shall be read as part of, this Act) shall apply to officers appointed under this section.

Insertion of new
s. 29a.

4. The following section is inserted after section 29 of the principal Act:

Confidentiality of
information
supplied to
employees.

29a. No person who is or has been employed by the Bank shall disclose information as to the affairs of a customer acquired by him in the course of his employment unless—

(a) the disclosure is made in the normal course of the business of the Bank;

(b) he has the customer's approval to do so;

or

(c) he is authorised or required by any Act or other law to do so.

Penalty: Two thousand dollars.

Amendment of
schedule of
principal Act.

5. The schedule to the principal Act is amended—

(a) by inserting in the heading before the word "SCHEDULE" the word "FIRST";

and

(b) by inserting in subclause (2) of clause (1) after the word "instrument" the passage "(whether or not of a statutory nature)".

6. The following schedule is inserted in the principal Act after the first schedule.

Insertion of new
schedule.

SECOND SCHEDULE

PROVISIONS RELATING TO THE EMPLOYMENT OF OFFICERS

PRELIMINARY

Interpretation.

1. In this schedule, unless the contrary intention appears—

“classified office” means an office in the Bank classified by the Board pursuant to this Act but does not include a prescribed office:

“employee” means a person in the employment of the Bank who is not an officer:

“fixed establishment officer” means an officer who was declared under the Savings Bank of South Australia Act, 1929, to be, or to have been, on the fixed establishment of The Savings Bank of South Australia as from a date prior to the second day of July, 1959, and who continued on the staff of that Bank from the date of the declaration until the commencement of this Act:

“misconduct” means—

(a) a contravention of or failure to comply with a code of conduct laid down by the Board;

(b) a contravention of or failure to comply with any instruction or order given by a person who has authority to give the instruction or order;

(c) any other breach of discipline:

“office” means an office in the Bank:

“officer” means the holder of an office in the Bank:

“prescribed office” means an office declared to be a prescribed office by the Board:

“the Union” means the Australian Bank Employees’ Union S.A. & N.T. Division.

CONDITIONS OF EMPLOYMENT AND CLASSIFICATION OF OFFICES

Conditions of
employment and
dismissal.

2. Subject to this Act, the Board may—

(a) employ officers and other persons subject to such conditions as it thinks fit;

(b) transfer an officer from one office to another office having the same classification;

and

(c) terminate the employment of an officer or employee.

Prescribed offices.

3. (1) The Board may declare any office in the Bank to be a prescribed office.

(2) The Board shall give written notice to the officers of the Bank of a declaration under subclause (1).

Classification of
offices.

4. (1) The Board may, pursuant to this clause, classify an office in the Bank (other than a prescribed office) by reference to the level of salary payable in respect of that office.

(2) One or more classification committees may be established in accordance with this clause to advise the Board on the classification of offices pursuant to this clause.

(3) A classification committee shall be constituted of three members of whom—

(a) one (who shall be the chairman of the committee) shall be a person, who is neither an officer of the Bank nor an official of the Union, appointed by the Board with the approval of the Union;

(b) one shall be an officer appointed by the Board;

and

(c) one shall be appointed by the Union.

(4) The matters to be considered by a classification committee pursuant to this clause shall be determined by the Board.

(5) The Board shall give written notice to the officers of the Bank of the classification under this clause of an office in the Bank.

APPEALS AGAINST PROMOTION

Board may invite
applications for
appointment to
office.

5. Where the Board wishes to make an appointment to an office it may invite applications for that appointment.

Appeal to
Promotion
Appeals
Committee.

6. (1) An officer who is aggrieved by the proposed appointment of another officer to an office in the Bank may, subject to this clause, appeal to the Promotion Appeals Committee against the appointment.

- (2) An appeal shall not be instituted under subclause (1) unless—
- (a) the classification of the office to which the appointment is to be made is higher than the classification of—
 - (i) the office presently held by the proposed appointee;
 - and
 - (ii) the office presently held by the appellant;
 - and
 - (b) in the case of an officer who was invited by the Board to apply for appointment to the vacant office, he applied in response to that invitation.
- (3) Where the Board proposes to appoint a person to an office the Board shall notify every officer, who is entitled to appeal against the proposed appointment, of the appointment it proposes to make.
- (4) An officer who wishes to appeal to the Promotion Appeals Committee under this clause must—
- (a) in the case of an officer who was invited by the Board to apply for appointment to the vacant office—not later than seven days after he was notified of the proposed appointment under subclause (3);
 - or
 - (b) in any other case—not later than fourteen days after he was notified of the proposed appointment under subclause (3),
- lodge notice of his appeal with the Committee.
- (5) The Board shall, for the purposes of this clause, be deemed—
- (a) to have invited an officer to apply for appointment to a vacant office;
 - or
 - (b) to have notified an officer of a proposed appointment,
- if it has taken steps that are reasonably practicable to bring the invitation or the proposed appointment to his attention.
- (6) An officer may not appeal under this clause against the appointment of a person to a prescribed office.
7. (1) There shall be a committee entitled the "Promotion Appeals Committee".
- (2) There shall be six members of the Committee of whom—
- (a) one (who shall be the chairman of the Committee) shall be a person, who is neither an officer of the Bank nor an official of the Union, appointed by the Board with the approval of the Union;
 - (b) two shall be officers appointed by the Board;
 - and
 - (c) three shall be officers appointed by the Union of whom—
 - (i) one shall be employed at the head office of the Bank;
 - and
 - (ii) one shall be the manager of a branch of the Bank.
- (3) For the purpose of considering an appeal the Committee shall be constituted of—
- (a) the chairman of the Committee;
 - (b) one of the officers appointed by the Board who has been selected by the Board for the purpose of considering the appeal;
 - and
 - (c) one of the members appointed by the Union.
- (4) The appellant shall select one of the members appointed by the Union to be a member of the Committee for the purpose of considering his appeal and if there is more than one appellant and they cannot agree on the selection of the member, the chairman of the Committee shall make the selection.
- (5) A question arising before the Committee shall be determined in accordance with the opinion of the majority of the members constituting the Committee.
- (6) In determining an appeal the Committee shall take into account the capacity demonstrated by the proposed appointee and by the appellant to undertake the duties of the office in question and whether it is likely that they will develop the further capacity to undertake the duties of offices classified at a higher level than the office in question.
- (7) The fact that, on a previous occasion, an officer had refused appointment to an office of higher classification than the office that he then held shall not be taken into account to his prejudice by the Committee when determining an appeal in which he is a party.

The Promotion
Appeals
Committee.

(8) The Committee shall give to the appellant, the proposed appointee and the Bank reasonable notice of the time and place at which it intends to conduct the proceedings and shall afford to the parties a reasonable opportunity to provide it with documentary evidence and to make submissions to it.

(9) If the Committee invites the parties to appear before it, it shall, in the case of the appellant and the proposed appointee, permit them to be represented by officials of the Union and shall permit the Bank to be represented by an officer.

Recommendation
by Committee.

8. (1) The Committee may, on considering an appeal—

(a) allow the appeal and recommend that the Board appoint the appellant, or one of the appellants, to the contested office;

or

(b) dismiss the appeal and confirm the appointment proposed by the Board.

(2) The Board may comply with a recommendation made by the Committee under subclause (1).

LONG SERVICE LEAVE

Long service
leave.

9. (1) The entitlement of an officer or employee to long service leave shall be determined as follows:

(a) an officer or employee who was, immediately before the commencement of this Act, an officer or employee of the State Bank of South Australia established by the State Bank Act, 1925, and who had, at that time, seven years or more continuous service with that Bank shall be entitled to long service leave in accordance with the provisions of the Public Service Act, 1967, and the provisions of that Act relating to long service leave shall apply *mutatis mutandis* for the benefit of that officer or employee;

(b) an officer or employee who is not an officer or employee referred to in paragraph (a) shall be entitled to long service leave in accordance with the provisions of the Long Service Leave Act, 1967, and the provisions of that Act shall apply *mutatis mutandis* for his benefit.

(2) The Board may, on giving an officer or employee three months notice, require him to take long service leave to which he is entitled.

(3) The entitlement to long service leave of an officer or employee who was, immediately before the commencement of this Act, an officer or employee of either of the amalgamating banks shall be determined on the basis that his service with the bank concerned was service with the Bank.

SUPERANNUATION ENTITLEMENT OF FIXED ESTABLISHMENT OFFICERS

Entitlement of
fixed
establishment
officers to
superannuation.

10. (1) Subject to subclause (3), where—

(a) a fixed establishment officer has attained the age of sixty years or has completed a total of forty years service or more with The Savings Bank of South Australia and the Bank and, in either case, his employment with the Bank ceases for any reason other than misconduct;

or

(b) a fixed establishment officer resigns from the Bank with the approval of the Board by reason of his physical or mental incapacity,

the Bank shall pay to the officer an amount determined in accordance with the following formula:

$$S = \frac{115}{100} \left(MS \times Y + MS \times \frac{D}{365} \right)$$

where—

S = the amount payable

MS = the monthly salary of the officer determined in accordance with subclause (4)

Y = the number of whole years that the officer has been a fixed establishment officer

D = the number of days in addition to the number of years that the officer has been a fixed establishment officer.

(2) Subject to subclause (3), where a fixed establishment officer has completed a total of twenty years service or more with The Savings Bank of South Australia and the Bank and his employment with the Bank ceases for any reason other than misconduct, the Bank shall pay to the officer an amount determined in accordance with the following formula:

$$S = MS \times Y + MS \times \frac{D}{365}$$

where—

S = the amount payable

MS = the monthly salary of the officer determined in accordance with subclause (4)

Y = the number of whole years that the officer has been a fixed establishment officer

D = the number of days in addition to the number of years that the officer has been a fixed establishment officer.

(3) No payment shall be made under this clause to, or in relation to, a person who, at any time after he was declared to be a fixed establishment officer, was a contributor to the South Australian Superannuation Fund.

(4) For the purposes of subclauses (1) and (2) the monthly salary of an officer shall be one thirty-sixth of the total salary that would have been payable to him in the period of three years immediately preceding the cessation of his employment with the Bank if, during that period, he had been paid at the level of salary applying at the time of the cessation of his employment in respect of—

(a) the offices in the Bank that he held on a permanent basis during that period;

and

(b) where he held an office on a permanent basis in The Savings Bank of South Australia during that period or where an office that he held on a permanent basis in the Bank during that period no longer exists—an office in the Bank that, in the opinion of the Board, equates, or most nearly equates, that office.

(5) For the purposes of subclauses (1) and (2) an officer shall be deemed to have been a fixed establishment officer for the period from the date from which he was declared to be, or to have been, on the fixed establishment of The Savings Bank of South Australia until the cessation of his employment with the Bank less any period during that period that he was absent from his employment on leave without pay and that, in the opinion of the Board, should not be taken into account when determining the period for which he is deemed to have been a fixed establishment officer.

(6) Where the employment of a fixed establishment officer ceases by virtue of his death, the Bank may pay to one or more of his dependants or to his legal personal representative in such shares as it thinks fit an amount not exceeding the amount that would have been payable to the officer if, with the approval of the Board, he had retired on the day of his death by reason of his physical or mental incapacity.

DISCIPLINE

11. (1) If, after making a full inquiry, the Board is satisfied that an officer is guilty of misconduct it may impose one or more of the following penalties:

Inquiry by Board into conduct of officer.

(a) it may reprimand the officer;

(b) it may transfer him to another office in the Bank at a lower classification;

(c) it may reduce the salary or allowances payable to him;

(d) it may suspend him from office with or without pay for a period fixed by the Board;

or

(e) it may dismiss him.

(2) Where the conduct of an officer is the subject of an inquiry by the Board or the Chief Executive Officer proposes to submit a report to the Board recommending that the Board inquire into the conduct of an officer, the Chief Executive Officer may suspend the officer concerned from office.

(3) An officer suspended under subclause (2) may be suspended with or without pay and the suspension shall not operate after the matter has been finally determined by the Board or by the Disciplinary Appeals Tribunal or after the Board has decided not to inquire into the matter, as the case requires.

12. (1) There shall be a tribunal entitled the "Disciplinary Appeals Tribunal".

The Disciplinary Appeals Tribunal.

(2) There shall be six members of the Tribunal of whom—

(a) one (who shall be the chairman of the Tribunal) shall be a member of the Industrial Commission of South Australia appointed by the President of the Industrial Court of South Australia;

(b) two shall be officers (employed at different branches of the Bank) appointed by the Board;

and

(c) three shall be officers appointed by the Union of whom—

(i) one shall be employed at the head office of the Bank;

and

(ii) one shall be the manager of a branch of the Bank.

(3) For the purpose of hearing an appeal the Tribunal shall be constituted of—

(a) the chairman of the Tribunal;

(b) one of the officers appointed by the Board (not being an officer who is employed at the same branch of the Bank as the appellant) who has been selected by the Board for the purpose of hearing the appeal;

and

(c) one of the members appointed by the Union who has been selected by the appellant for the purpose of hearing his appeal.

(4) A question arising before the Tribunal shall be determined in accordance with the opinion of the majority of the members constituting the Tribunal.

(5) In subclause (2) (b) and subclause (3)—

“branch of the Bank” means a branch or section of the Bank and includes the head office of the Bank.

Appeal by officer. 13. (1) An officer who is aggrieved by a decision of the Board pursuant to clause 11 (other than a decision to reprimand him) may appeal to the Tribunal.

(2) An appeal must be instituted within fourteen days of the decision appealed against, but the Tribunal may, if it is satisfied that it is just and reasonable in the circumstances to do so, dispense with the requirement that the appeal be instituted within that time.

(3) The Tribunal may, on hearing an appeal, affirm, vary or quash the penalty imposed by the Board or impose any penalty that should have been imposed in the first instance.

(4) Where a penalty has been imposed by the Board and the Board or the Tribunal is satisfied that an appeal against the decision has been instituted, or is intended, the Board or the Tribunal may suspend the operation of the decision until the determination of the appeal.

(5) Where the operation of a decision has been suspended by the Board or the Tribunal under subclause (4) that suspension may be terminated by the Board or the Tribunal (as the case requires).

(6) The appellant and the Board shall be entitled to appear and be heard on an appeal under this clause and may be represented before the Tribunal by a legal practitioner or other agent.

(7) The Tribunal shall give to all parties to proceedings before it reasonable notice of the time and place at which it intends to conduct the proceedings and shall afford to the parties a reasonable opportunity to call and give evidence and to make submissions to the Tribunal.

(8) If a party to whom notice has been given under subclause (7) does not attend at the time and place fixed by the notice, the Tribunal may proceed to hear and determine the appeal in the absence of that party.

(9) The Tribunal shall, at the request of a party to proceedings before it, provide that party with written reasons for its decision.

(10) The Board may pay the reasonable costs incurred by an appellant in an appeal under this clause.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

C. L. LAUCKE, Governor's Deputy