

CEC Draft Legislation for Australia's New Commonwealth National Credit Bank

In 1994, the CEC composed draft legislation to re-establish the Commonwealth Bank as a national bank, with expanded powers and functions along the lines originally envisaged by King O'Malley first, and then by John Curtin and Ben Chifley. Because it was written in 1994, this draft relied upon the still government-owned Commonwealth Bank, which since then has been privatised and sold off. While incorporating all the principles of the 1994 draft, the CEC has revised and rewritten this legislation. A draft of this legislation follows here:

COMMONWEALTH NATIONAL CREDIT BANK BILL 2019

This Bill is the second of a series of three Bills to reform the Australian Banking System. The first of the Bills is the Banking System Reform (Separation of Banks) Bill 2019. The third of the Bills is the National Credit Bank (Bank Regulation) Bill 2019.

This Bill incorporates the best features of previous Australian Banking legislation and incorporates them into the context of a National Banking system for Australia to replace the failed Central Bank structure and APRA/ASIC regulation under which the private banking corporations embarked on policies of speculation and the monetisation of the Australian economy to the detriment of the physical economy and the Australian people.

A national bank dedicated to fostering the growth of the nation's physical economy is the cornerstone of national sovereignty.

The key feature of a National Bank is that it has full access to the credit of the country and is a direct lending institution for economic growth, determining the guiding boundaries of the economy - it does not undertake lending or discounts mediated by the concerns of commercial banks operating according to mathematical formulas about how quickly the economy should grow according to supply and demand. The Commonwealth National Credit Bank ("CNCB") will be a legislated institution, not separate from the rest of economy, but at its head. It will control and regulate but also link private banking and the interests of industry and trade directly to the economy.

Public credit as provided by the CNCB will be governed by the principal that the creation of a debt should always be accompanied with the means of extinguishment, so in all commercial banking by the CNCB, the same principle shall apply, that no self-evident debts be created, but credit agreements which ensure that circulation is returned by debtors of the banks at a rate equal to that at which it is issued.

Under the proper functioning of such a credit system, the meaning of debt is transformed. The debts of farmers are paid by next season's produce; the debts of

merchants are paid through subsequent sales; and on the larger scale, the debts of states for infrastructure are paid by the future development of industries. The debt created for internal improvements, and personal debts in farming and manufacturing are simply part of the growing economy under a credit system.

Within the context of the CNCB providing credit, a proper system of commercial banking will make profit, not on mutual funds and other risky ventures, but on loans and the discounts between new industries and industrial and agricultural consumers in Australia. The interest paid to banks will correspond to a portion of the surplus earned by productive citizens from the employment of loans. Loans issued by banks will be strictly tied to the time of the production cycle for which loans and discounts are made. Banks will conduct loans that depend upon the profitable operation of the borrower, where employment will be provided and the security will reasonably assure ultimate liquidation of the loan.

Banks will become intermediaries to the agro-industrial economy and share in the profit made from converting raw materials into finished goods and increasing the output of the land. Commercial banks will profit from increased industrial orders within the national economy and for purposes of increasing the productive output of the national economy. Investment and pension funds will redirect valid savings into these new productive enterprises, rather than the formerly speculative, derivative-related funds. Those who produce goods for industry, those who labour to construct infrastructure, and those who produce goods for consumption, will benefit as will those who buy and sell the goods in commerce and trade. Speculation on foreign exchange and interest rates will be replaced by productive investment. Tax-paying domestic manufacturers will receive those privileges currently granted to foreign nations and supranational cartels.

The Commonwealth National Credit Bank Bill creates a national bank which will control the public credit of our nation consistently with such ideas and

John Curtin's 1937 admonition that

"If the government of the Commonwealth deliberately excludes itself from all participation in the making or changing of monetary policy, it cannot govern except in a secondary degree."

The intent of the Bank is consistent with that originally advocated by King O'Malley. Whilst the 1911 Commonwealth Bank was created with limited powers and functions compared to those envisaged by O'Malley, it proved its value when under Government control or direction during WWI and under Curtin and Chifley during WWII.

There is a very important concept underlying the concept of a National Bank and that is the difference between a monetarist system which we have today, and a credit system which a National Bank represents - they are two fundamentally different systems. The National Bank is a credit system. In a synopsis by Michael Kirsch on a detailed study of public credit [Draft Legislation to Restore the Original Bank of the United States] he wrote: "A monetarist system constantly looks backwards to the past, with the aim of monetising the results of past production, rather than the creation of new wealth. A credit system operates on the intention of, and confidence in, the future. Rather than relying on past production or stores of wealth, it creates wealth by tying the future completion of projects, and the production of goods and manufactures, to the original promise."

Alexander Hamilton, the USA's first Secretary of the Treasury under President George Washington, who was responsible for the First National Bank in America, told the Congress in his 1795 Report on the Public Credit that public credit "is among the principal engines of useful enterprise and internal improvement. As a substitute for capital, it is little less useful than gold or silver, in agriculture, in commerce, in the manufacturing and mechanic arts. ... One man wishes to take up and cultivate a piece of land; he purchases upon credit, and in time pays the purchase money out of the produce of the soil improved by his labour. It is by credit that he is able to procure the tools, the materials and even the subsistence of which he stands in need, until his industry has supplied him with capital; and even then, he derives from an established and increased credit the means of extending his undertakings."

That is the principle underlying a national bank - not the maximising of shareholder profit.

The National Bank will licence and regulate the private banks. It will guarantee the deposits in all licensed commercial and retail banks, so that deposits will be safe in the banking system. It will provide an avenue for people's savings and superannuation funds

to be invested safely. It will extend credit to all levels of government for investment in public infrastructure, which will re-industrialise and rebuild Australia. It will provide credit assistance for farmers, manufacturers, entrepreneurs, and small business. It will protect the currency and public credit of Australia.

The bank will issue debentures, in sums and on conditions approved by the Treasurer. Unlike most debentures sold commercially today, which are not covered by government guarantee, these instruments will be underwritten by the Commonwealth Government. They will be issued and sold in lots of \$100, and the interest rate will be fixed by the bank. In terms of fractional reserve banking, if the bank were to issue \$100 billion in debentures, then under a conservative lending ratio of just 10:1, it could immediately lend \$1 trillion. And to put that in context, Australian superannuation funds have \$2.7 trillion in assets as at the end of June 2018.

The Treasurer may also make advances to the bank for the bank's use and function.

The management of the Bank will be vested in a Governor and Deputy Governor who will be appointed by the Treasurer with the advice and consent of the Senate. They will hold office for a term of seven years, and will be eligible for reappointment. It is considered that a Governor is preferable to a Board. The original Commonwealth Bank had very successful governor, Sir Denison Miller, from its inception in 1912 until he died suddenly in 1923. And he transformed the face of Australia, back in the World War I years, because he had the foresight and the vision to be able to direct the bank to do certain things, under the guidance of the government of the time. After his death a Board was appointed comprising representatives of the private banks and the very purpose of the Commonwealth Bank was destroyed.

Then there is also an Advisory Council to the management of the CNCB, designed to advise the Governor with respect to the economic, monetary and banking policy of the bank, and with respect to such other matters as the Governor refers to the Advisory Council. It shall consist of the Deputy Governor of the bank; the Secretary to the Department of the Treasury and another appointee from the Treasury; two officers from the bank; and two representatives from each of the States and Territories of the Commonwealth, recommended by the Premier and Chief Minister of each State or Territory. So there is immediate input from the states at the top of this bank, advising the governor. The states are not left out; they are an integral part of this process.

In terms of management, there is another very important principle where there is a disagreement between

the government of the day, and the bank, as occurred in the 1930s when Commonwealth Bank Governor Sir Robert Gibson refused assistance to the Scullin Labor government's Treasurer Ted Theodore in creating £18 million in fiduciary credit to deal with the unemployment in the Great Depression. If Australia had issued that credit, we wouldn't have had a depression. Australia didn't lose any banks in the depression, but if we'd had this credit, the intention was to employ 100,000 workers, fund the farmers, and so forth. As published in Smith's Weekly on 4 October 1930, Gibson said, "Mr Prime Minister, I have been asked to inflate the currency, and I bloody well won't." So the principle is that if the Treasurer - i.e. the government - and the bank are unable to reach agreement on policy, then the government may direct the bank to adopt the government's policy.

The Bank has a series of Divisions as detailed in the Bill and which are as follows:-

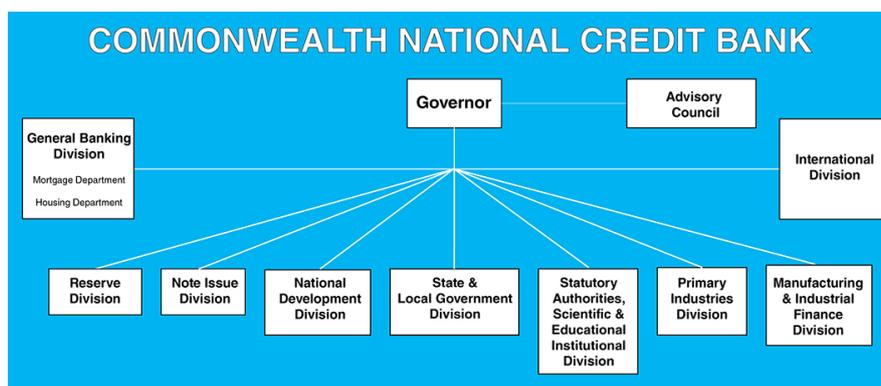
General Banking Division

Within this Division, the bank shall have such powers as are necessary for carrying on and expanding a general banking business. It shall not refuse to conduct banking business for any person, even though such actions may have the effect of taking away business from another bank.

Within the General Banking Division there will be a Mortgage Department and a Housing Department. The Mortgage Department will deal with matters such as providing credit for people in farming—agriculture, horticulture, pastoral, and so forth; primary production. And its housing department will enable people to obtain mortgage finance from the CNCB.

Reserve Division.

The Reserve Bank of Australia is going to be dissolved and the activities previously undertaken by the RBA will now be undertaken by this Division. The Reserve Division will be responsible for the licencing and regulation of all banks as provided for in the National Credit Bank (Bank Regulation) Act, which is another piece of legislation that works in parallel with this National Bank Bill. Full Glass-Steagall requirements will be imposed on all licensed banks. The Australian Prudential Regulation Authority (APRA) will be retained, under Parliamentary supervision, as we've written in our Glass-Steagall Bill that is in the Parliament now, because there are certain agreements relating to superannuation and insurance companies



with the State Governments, to centralise the way that those institutions can be "supervised" but it will no longer licence or regulate banks as that responsibility will rest with the CNBC.

Notes Division

This Division will manage the issuing, re-issuing and cancellation of Australian banknotes. It will include the Royal Mint, and everything else to do with coinage and the production of banknotes.

National Development Division

This Division of the bank is responsible for building the infrastructure of the nation. It shall be responsible for the provision of credit for the establishment and maintenance of publicly owned infrastructure of national importance, including for example surface transportation and ports; water management and supply; drought, flood and storm protection; electrical energy production and distribution; and much, much more.

There is one very important qualification: this bank will not direct credit to any Public-Private Partnership-funded projects, nor to any infrastructure projects not intended to be publicly owned, operated and controlled.

State and Local Government Division

This Division will provide banking facilities for, and credit to State and Local Governments and their institutions, for the provision of local infrastructure. The bank can provide funding for housing for families with low income, to try and get rid of slum areas; and to build publicly owned bridges, tunnels, docks, sewerage programs, viaducts, waterworks, canals and so forth, exactly as the original Commonwealth Bank did.

Statutory Authorities, Scientific and Educational Institutions Division.

This Division shall be responsible for the provision of credit to provide for scientific and technological research and development costs and the associated capital costs of land, buildings, plant, machinery and other tangible items for statutory authorities,

scientific and educational institutions, with a view to increasing both the physical output of the nation, and the rate of introduction of new technologies into the economy, recognising that creativity, developing the creative powers and discoveries of our scientists and our researchers, is absolutely paramount.

Primary Industries Division.

The role of this Division will be to support and provide credit for family farmers and others involved in primary production - the cultivation of land, the maintenance of animals and poultry; anything that feeds and clothes us, fishing operations, forestry operations. But also industries that support primary industries in the manufacture of those products, such as dairy processing for example.

Manufacturing and Industrial Finance Division.

This Division will facilitate and encourage, provide advice, assist, and provide finance for the establishment and development of industrial undertakings, particularly small undertakings. We need to promote and build up, small manufacturers that are very diverse. Unlike the other Divisions, there shall be a General Manager of the Manufacturing and Industrial Finance Division, who shall be appointed by the Governor and shall hold office as determined by the Governor. This particular Division requires a manufacturing background and familiarity with industrial processes, not a banking background.

International Division.

This Division will be responsible for such matters as the administration of foreign exchange controls, the provisions relating to gold, and the exchange and clearance of financial instruments and other international matters.

The Legislation

An Act to overturn the current monetarist philosophies and policies and return Australia to a public credit-based system implemented through a system of national banking, to establish a new, government-owned national bank to regulate Australia's national credit, to thereby re-establish public confidence in the banking system, to restore to the Australian Parliament the Constitutional power to regulate Australia's currency and credit, re-enforcing the Constitutional obligation of the Commonwealth to regulate the Australian economy which requires the Commonwealth government to ensure an orderly flow of credit and currency to public and private enterprise engaged in the production and transportation of tangible economic wealth, including manufacturing, agriculture, construction, mining, public utilities and transportation and enable the financing of nationwide infrastructure projects in water, high-speed rail, and energy among other vital aspects of the economy, to act as

science-drivers and to increase Australia's physical-economic productivity and therefore the standard of living of all Australians.

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PART I—PRELIMINARY

The Parliament of Australia enacts:

1. Short title

This Act may be cited as the Commonwealth National Credit Bank Act 2018.

2. Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3. Outline of the Purposes of the Act

The purposes of this Act are:

- (a) to re-enforce the Constitutional obligation of the Commonwealth to regulate the Australian economy which requires the Commonwealth government to ensure an orderly flow of credit and currency;
- (b) to return Australia to a public credit-based economy implemented through a system of national banking;
- (c) to establish a new, government-owned national bank to regulate Australia's national credit;
- (d) to enable the financing of nationwide infrastructure projects, vital aspects of the economy, to act as science-drivers and to increase Australia's physical-economic productivity and therefore the standard of living of all Australians.

4. Definitions

4.1 In this Act, unless the contrary intention appears:

the Bank means the Commonwealth National Credit Bank established by this Act.

Australia includes the Territories.

Australian currency means notes, coins and specie, payable and denominated in Australian dollars and cents:

Australian financial instrument means any instrument denominated in Australian currency evidencing debt or property, or a surety for the fulfilment of a promise or obligation, and also means rights, options, swaps and derivatives so denominated.

bank means a corporation carrying on banking

business.

banking business means:

- (a) a business that consists of banking within the meaning of paragraph 51(xiii) of the Constitution other than State banking but including State banking extending beyond the limits of the State concerned; and
- (b) a business that is carried on by a corporation to which paragraph 51(xx) of the Constitution applies other than State banking but including State banking extending beyond the limits of the State concerned, and that consists, to any extent, of both taking money on deposit (otherwise than as part-payment for identified goods or services) and making advances of money.

Commonwealth means the Federal Commonwealth of Australia.

Constitution means the Constitution of Australia Act as amended.

foreign currency means notes, coins and specie denominated other than in Australian dollars and cents.

Governor means the Governor of the Bank

national banking means the business carried on by the Commonwealth National Credit Bank of Australia in accordance with this Act;

officer or **officer of the Bank** means an officer of the Commonwealth National Credit Bank.

Parliament means the Parliament of the Commonwealth.

Senate means the Senate of the Parliament of the Commonwealth.

5. Application to Crown

This Act binds the Crown in right of each of the States, of the Australian Capital Territory, and of the Northern Territory.

6. Commonwealth National Credit Bank

- 6.1 A commonwealth Bank, to be called the Commonwealth National Credit Bank, is hereby established.
- 6.2 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.
- 6.3 The Bank shall, in addition to any other powers conferred by this Act, have power:
 - (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;

- (i) to do anything incidental to any of its powers.

- 6.4 The Bank shall issue bills or notes of the Bank in the manner as provided for in this Act for the payment of money payable to bearer on demand and intended for circulation.
- 6.5 The capital of the Bank shall be such amounts as shall be advanced to the Bank by the Commonwealth whether by loan or payment from Consolidated Revenue together with such amounts as may be raised by the sale and issue of debentures in pursuance of this Act. The Bank is authorised to raise capital liabilities for its project investments from the public, from commercial banks and business corporations, and from investment funds, by issuing debenture bonds; the bonded borrowing of the Bank shall be guaranteed by the Commonwealth as provided for in this Act; and the bonds of the Bank shall be qualified for purchase by commercial banks under the standards as provided for in the Banking System Reform (Separation of Banks) Act.
- 6.6 The Treasurer may, from time to time, out of moneys authorised by the Parliament, lend to the Bank, for the purposes of the Bank in exercising its powers and responsibilities pursuant to this Act, such amounts, and subject to such terms and conditions, as are agreed upon between the Treasurer and the Bank.
- 6.7 The capital of the Bank shall be available for all the purposes of the Bank.
- 6.8 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.
- 6.9 Any moneys advanced in pursuance of this section shall be repaid to the Treasurer by the Bank, together with interest at the rate of two per centum per annum.
- 6.10 Any and all notes, debentures, bonds, or other such obligations issued by the Bank shall be exempt both as to principal and interest from all taxation now or hereafter imposed by the Commonwealth or by any State or Territory of the Commonwealth. The Bank, including its capital, reserves, and surplus, and its income shall be exempt from all taxation now or hereafter imposed by the Commonwealth or by any State or Territory of the Commonwealth; except that any real property of the Bank shall be subject to State, Territory, or local government taxation to the same extent according to its value as other real property is taxed.
- 6.11 The Bank will have the following relations to

commercial banks:

- (a) Commercial banks shall not be eligible for loans or discounts or any other accommodation from the Bank and its branches, unless such commercial banks shall be operating under the provisions of the Banking System Reform (Separation of Banks) Act and hold a licence from the Bank under the provisions of the National Credit Bank (Bank Regulation) Act.
- (b) During the unwinding process which will be created by the Government's implementation of the Banking System Reform (Separation of Banks) Act, related to the separation of banks by function into commercial and investment banks, the Bank is authorised to make loans to and purchase preferred shares of commercial banks, in order to rehabilitate the capital structure of banks whose assets will have shrunk to such a degree, that their capital will be impaired.
- (c) The Bank may make loans or provide financial facilities to the eligible Commercial banks as referred to in Section 6.11(a) to enable such eligible financial banks to make loans and provide financial facilities to customers of such eligible Commercial banks where such loans and financial facilities are for purposes for which the Bank might make such loans and provide such financial facilities in accordance with the provisions of this Act. Such loans shall be on terms and conditions as agreed upon between the Bank and such Commercial banks including discounts on interest rates such that the interest rate to be charged by the Commercial bank shall not exceed the rate which would be charged by the Bank if the Bank were to have made such loan or granted such financial facility to the borrower from the Commercial bank.

6.12 The Governor with the consent of the Treasurer may make regulations, not inconsistent with this Act, prescribing all matters which by this Act 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 or for the conduct of business by the Bank and, in particular, prescribing penalties not exceeding 10 penalty units for offences against the regulations.

7. Reserve Bank

- 7.1 Upon a date to be fixed by Proclamation, the Reserve Bank shall be dissolved.
- 7.2 Any activities previously the responsibility of the Reserve Bank shall after such date be undertaken by the Bank in accordance with the provisions of this Act.
- 7.3 Upon the date fixed by Proclamation for the dissolution of the Reserve Bank, all assets and liabilities of the Reserve Bank shall by force of this Act be transferred to the Bank.

7.4 Upon a further date fixed by Proclamation the Reserve Bank Act 1959 as amended shall by force of this Act be repealed.

PART II—FUNCTIONS & OPERATION OF THE COMMONWEALTH NATIONAL CREDIT BANK

8. Commonwealth National Credit Bank to act as a National Bank

- 8.1 The Commonwealth National Credit Bank shall act as a national bank.
- 8.2 The Commonwealth National Credit Bank shall, in so far as the Commonwealth requires it to do so, act as banker and financial agent of the Commonwealth.
- 8.3 The Commonwealth National Credit Bank shall have power to carry on the business of a national bank and shall, without limiting the generality of the foregoing, have power, in addition to any other powers conferred on it by this Act:
 - (a) to regulate the note issue in accordance with Part VIII of this Act;
 - (b) to receive money on deposit;
 - (c) to borrow money;
 - (d) to lend money;
 - (e) to buy, sell, discount and re-discount bills of exchange, promissory notes and Treasury Bills;
 - (f) to buy and sell securities issued by the Government of the Commonwealth and other securities;
 - (g) to buy, sell and otherwise deal in foreign currency, specie, gold and other precious metals;
 - (h) to establish credits and give guarantees;
 - (i) to issue bills and drafts and effect transfers of money;
 - (j) to underwrite loans;
 - (k) to acquire and hold land on any tenure; and
 - (l) to do anything incidental to any of its powers.
- 8.4 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.

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.

8.5 The Bank may exercise the powers and functions of the Bank as provided for in this Act and such powers and functions shall not be limited nor prevented from exercise by any Commonwealth, State, Territory or Local Government Act, regulation, or policy, nor any International Treaty, Agreement or Understanding where such Act, regulation, or policy, or International Treaty,

Agreement or Understanding adversely affects Australia's sovereignty or the national interest and the welfare of Australians.

- 8.6 The Commonwealth government will not implement any policy nor pass any legislation which is incompatible with the Purposes or provisions of this Act.

9. General Function of the Commonwealth National Credit Bank

9.1 It shall be the duty of the Commonwealth National Credit Bank, within the limits of its powers, to pursue an economic and banking policy directed to the establishment and retention of Australia's economic sovereignty and the life, liberty and pursuit of happiness of the people of Australia, and to exercise its powers under this Act in such a manner as, in the opinion of the Bank, will best contribute to those pursuits and to:

- (a) the protection of the currency of the Commonwealth;
- (b) the protection of the public credit of the Commonwealth;
- (c) ensuring an orderly flow of credit and currency to public and private enterprise engaged in the production and transportation of tangible economic wealth, including manufacturing, agriculture, construction, mining, public utilities and transportation;
- (d) enabling the financing of nationwide infrastructure projects in water, high-speed rail, and energy among other vital aspects of the economy;
- (e) increasing Australia's physical-economic productivity and therefore the standard of living of all Australians;
- (f) the provision of stability for the currency of Australia; and
- (g) the economic prosperity and welfare of the people of Australia.

9.2 To aid in financing agriculture, commerce, and industry, including facilitating the exportation of agricultural and other products the Bank may make loans, upon such terms and conditions not inconsistent with this Act as it may determine, to any bank, savings bank, trust company, building society, insurance company, mortgage loan company, credit union, agricultural credit corporation, livestock credit corporation, incorporated or organized under the laws of any State or Territory or of the Commonwealth, including loans secured by the assets of any Australian bank or savings bank.

9.3 All loans which may be made under the foregoing provisions shall be upon such terms and conditions as the Bank may determine. The Bank, under such conditions as it shall prescribe, may take over or

provide for the administration and liquidation of any collateral accepted by it as security for such loans. Such loans may be made directly upon promissory notes or by way of discount or re-discount of obligations tendered for the purpose, or otherwise in such form and in such amount and at such interest or discount rates as the Bank may approve PROVIDED FURTHER THAT no loans or advances shall be made upon foreign securities or foreign acceptances as collateral or for the purpose of assisting in the carrying or liquidation of such foreign securities and foreign acceptances.

9.4 Within the foregoing limitations of this section, the Bank may also make loans to aid in the financing of railways engaged in interstate trade and commerce, to railways in process of construction, and to receivers of such railways, when in the opinion of the Bank such railroads or railways are unable to obtain funds upon reasonable terms through banking channels or from the general public and the Bank will be adequately secured, PROVIDED THAT no fee or commission shall be paid by any applicant for a loan under the provisions hereof in connection with any such application or any loan made or to be made hereunder, and the agreement to pay or payment of any such fee or commission shall be unlawful. Any such railway may obligate itself in such form as shall be prescribed by the Bank and otherwise comply with the requirements of the Bank with respect to the deposit or assignment of security hereunder, without the authorization or approval of any authority, State or Federal, and without compliance with any requirement, State or Federal, as to notification, other than such as may be imposed by the Bank under the provisions of this section.

9.5 The Bank may also make loans to aid in the financing of any publicly owned infrastructure within the Commonwealth where the project for the creation or improvement of such infrastructure is being undertaken by an instrumentality of the Commonwealth or of a State or Territory or is supported or promoted by the Commonwealth or a State or Territory and the loan obligations to the Bank are guaranteed by the Treasurer on behalf of the Commonwealth or the Treasurer of a State or Territory on behalf of such State or Territory in which event such guarantee shall be sufficient security within the meaning of this Section.

9.6 The Bank is authorised and empowered to accept drafts and bills of exchange drawn upon it which arise out of transactions involving the exportation of agricultural or other products actually sold or transported for sale subsequent to the enactment hereof and in the process of shipment to buyers in foreign countries PROVIDED THAT the Bank shall not make any such acceptances arising out of transactions involving the sale or shipment of armaments, munitions, or other war materials, or the sale or shipment into countries which

are at war of any merchandise or commodities except food and supplies for the actual use of non-combatants. All drafts and bills of exchange accepted under this section shall be in terms payable in Australia, in currency of Australia, and in addition to the draft or bill of exchange shall at all times be fully secured by Australian securities deposited as collateral or shall be guaranteed by a bank or trust company of undoubted solvency organised under the laws of the Commonwealth or any Commonwealth State or Territory, PROVIDED FURTHER THAT such securities shall not include goods stored or in process of shipment in foreign countries or the obligation of any foreign government, corporation, firm, or person.

9.7 No loan or advance shall be approved under this Act, directly or indirectly, to any financial institution of which any director, office-holder or substantial shareholder is a member of the Advisory Council or is an officer of the Bank or has been such a member or officer within the twelve months preceding the approval of the loan or advance.

10. Differences of opinion between Government and Bank on questions of policy

10.1 The Bank shall, from time to time, inform the Treasurer of the Bank's economic, monetary and banking policy.

10.2 The Bank shall keep the Treasurer informed as to the Bank's economic, monetary and banking policies and proposed policies.

10.3 If the Treasurer so requests, the Bank shall consult the Treasurer in relation to any specific economic, monetary or banking policy or proposed policy of the Bank with respect to the object of the such policy.

10.4 In the event of any difference of opinion between the Bank and the Treasurer as representing the opinion of the Commonwealth Government as to whether the economic, monetary and banking policy of the Bank is directed to the greatest advantage of the people of Australia and Australia's national interest, the Bank shall forthwith furnish to the Treasurer a statement as to the Bank's opinion in relation to the matter in respect of which the difference of opinion has arisen and the Treasurer and the Bank shall endeavour to reach agreement which statement shall include a copy of any advice which may have been given by the Advisory Council in respect of such policy.

10.5 The opinion of the Bank as referred to in section 11.4 shall be determined by the Governor after considering any advice of the Advisory Council in respect of such policy.

10.6 If the Treasurer and the Bank are unable to reach agreement, the Treasurer may inform the Bank that the Government accepts responsibility for the adoption by the Bank of

a policy in accordance with the opinion of the Government and may direct that the Bank will take such action (if any) within its powers as the Government considers to be necessary by reason of the adoption of that policy.

10.7 The Bank shall then, give effect to that policy.

10.8 The Treasurer shall cause to be laid before each House of the Parliament, within 15 sitting days of that House after the Treasurer has informed the Bank of the policy determined under subsection (5):

- (a) a copy of the Treasurer's determination of policy; and
- (b) a statement by the Government in relation to the matter in respect of which the difference of opinion arose; and
- (c) a copy of the statement furnished to the Treasurer by the Bank under subsection (4).

11. Bank guaranteed by the Commonwealth

11.1 The Commonwealth shall be responsible for the payment of all moneys due by the Bank but nothing in this section shall authorise any creditor or other person claiming against the Bank to sue the Commonwealth in respect of his debt or claim.

PART III—MANAGEMENT OF THE COMMONWEALTH NATIONAL CREDIT BANK

Division I.—The Governor and Deputy Governor

12. Governor and Deputy Governor

12.1 There shall be a Governor and a Deputy Governor of the Bank, who shall be appointed by the Treasurer with the advice and consent of the Senate, and shall hold office during good behaviour for a period not exceeding seven years but shall be eligible for re-appointment.

12.2 The Governor and Deputy Governor shall be paid such salary and allowances as the Treasurer determines.

13. Vacation of office of Governor and Deputy Governor in certain circumstances

13.1 The Governor or the Deputy Governor shall be deemed to have vacated his office if:

- (a) he engages in any paid employment outside the duties of his office;
- (b) he becomes bankrupt or insolvent, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (c) he becomes permanently incapable of performing his duties.

14. Bank to be managed by the Governor

14.1 The Bank shall be managed by the Governor who, subject to this Act, shall have power to

determine the policy of the Bank in relation to any matter and to take such action as is necessary to ensure that effect is given by the Bank to the policy so determined.

15. Duties of Deputy Governor

15.1 The Deputy Governor shall perform such duties as the Governor directs.

16. Deputy Governor to act when no Governor

16.1 In the event of a vacancy in the office of Governor, the Deputy Governor shall perform the duties of the Governor and shall have and may exercise the powers and functions of the Governor.

16.2 In the event of the temporary absence or incapacity of the Governor, the Deputy Governor shall perform the duties of the Governor and shall have and may exercise the powers and functions of the Governor.

17. Treasury and Commonwealth National Credit Bank to establish liaison

17.1 The Secretary to the Department of the Treasury and the Governor shall establish a close liaison with each other and shall keep each other fully informed on all matters which jointly concern the Department of the Treasury and the Bank.

Division 2.- The Advisory Council

18. Advisory Council

18.1 There shall be an Advisory Council to advise the Governor with respect to the economic, monetary and banking policy of the Bank, and with respect to such other matters as the Governor refers to the Advisory Council.

18.2 The Advisory Council shall consist of:

- (a) the Secretary to the Department of the Treasury;
- (b) the Deputy Governor;
- (c) an additional representative of the Department of the Treasury, who shall be an officer of the Public Service of the Commonwealth and shall be appointed by the Treasurer; and
- (d) two officers of the Bank, who shall be appointed by the Treasurer, on the recommendation of the Governor; and
- (e) two representatives of each of the States and Territories of the Commonwealth which representatives shall be appointed by the treasurer on the recommendation of the Premier and Chief Minister of each State or Territory.

18.3 Each of the members of the Advisory Council referred to in paragraphs (c) and (d) of the last preceding sub-section shall be appointed for a term not exceeding three years but shall be eligible for re-appointment. The appointees of the

States and Territories may be changed from time to time on the recommendation of the relevant Premier or Chief Minister.

18.4 In the event of a member of the Advisory Council referred to in paragraph (c) or (d) of sub-section (2) of this section ceasing to be an officer of the Public Service of the Commonwealth or of the Bank, as the case may be, he shall cease to be a member of the Advisory Council.

18.5 A member of the Advisory Council shall cease to be a member if:

- (a) he or she becomes permanently incapable of performing his or her duties; or
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
- (d) is absent, except on leave granted by the Governor, from all meetings of the Advisory Council held during 2 consecutive months or during any 3 months in any period of 12 months.

18.6 Each of the members of the Advisory Council referred to in paragraphs (a), (c) and (d) of sub-section (2) of this section shall be paid an allowance by the Bank at such rate as shall be determined by the Bank from time to time.

18.7 The Governor may attend and preside at all meetings of the Advisory Council but shall not be entitled to vote and shall not be counted for the purposes of a quorum.

18.8 No member of the Advisory Council shall in any manner, directly or indirectly, participate in deliberation upon or the determination of any question affecting his personal interests, or the interests of any corporation, partnership, or association in which he is directly or indirectly interested.

18.9 A member of the Advisory Council shall within 21 days of appointment to the Advisory Council provide to the Governor of the Bank a statement of the member's registrable interests.

18.10 The Bank shall maintain a Register of Interests in a form determined by the Bank from time to time. The Register shall be available for inspection by any person under conditions to be laid down by the Bank from time to time. The information to be provided in the member's statement shall be those registrable interests required by the Registration of Members' interests Requirements of the House of Representatives Resolution adopted by the House on 9 October 1984 as amended.

18.11 A member who has completed a disclosure statement for a Register of Interests as a member of a Commonwealth, State or Territory Parliament shall be sufficient compliance with the

provisions of section 19.9.

18.12 Five members of the Advisory Council shall form a quorum.

18.13 The Advisory Council shall meet at least once in each month.

PART IV—MISCELLANEOUS PROVISIONS RELATING TO THE COMMONWEALTH NATIONAL CREDIT BANK

19. Head Office

19.1 The head office of the Commonwealth National Credit Bank shall be at Sydney in the State of New South Wales.

20. Branches

20.2 The Bank may establish branches and agencies at such places, whether within or beyond Australia, as the Bank thinks fit.

21. Agents

21.1 The Bank may arrange with any person to act as agent of the Bank in any place whether within or beyond Australia.

21.2 The Bank may act as the agent of any bank carrying on business within or beyond Australia.

22. Appointment of Attorneys

22.1 The Bank may, by instrument under its common seal, appoint any person (whether in Australia or in a place beyond Australia) to be an 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 authorised by the instrument to do or execute.

23. Transfers from other banks

23.1 The Bank may, with the approval of the Treasurer, enter into an arrangement with any other bank for the transfer to the Bank, upon such terms and conditions as are agreed upon between the Bank and that other bank, of the whole or any part of the assets, liabilities and business of that other bank.

23.2 In order to enable the Bank to carry out the provisions of this Act all Commonwealth Departments and institutions are hereby authorised, under such conditions as such Departments and institutions may prescribe, to make available to the Bank, in confidence, such reports, records, or other information as they may have available relating to the condition of applicants with respect to whom the Bank has had or contemplates having transactions under this Act, or relating to individuals, associations, partnerships, corporations, or other obligors whose obligations are offered to or held by the Bank as security for loans pursuant to this Act, and to make, through their examiners, or other employees for the confidential use of the Bank, examinations of applicants for

loans. Every applicant for a loan under this Act shall, as a condition precedent thereto, consent to such examination as the Bank may require for the purposes of this Act and that reports of examinations by constituted authorities may be furnished by such authorities to the Bank upon request therefor.

24. National Bank Service

24.1 The Bank may appoint such officers as are necessary for the purposes of this Act.

24.2 The officers appointed under this section shall constitute the National Bank Service.

24.3 Subject to this section and to the regulations, officers hold office on such terms and conditions as the Bank determines.

25. Temporary and casual employees

25.1 The Bank may appoint such temporary and casual employees as are necessary for the purposes of this Act.

25.2 Employees so appointed shall be employed on such terms and conditions as the Bank determines.

26. Requirements for appointment

26.1 A person shall not be appointed under this Act to the National Bank Service unless:

- (a) he is an Australia subject;
- (b) he makes and subscribes, before a Justice of the Peace or a Commissioner for taking Affidavits, an oath or affirmation of allegiance in accordance with the form in the Schedule to the Constitution; and
- (c) the Bank is satisfied as to his health and physical fitness.

27. Regulations as to Service

27.1 The Governor with the consent of the Treasurer may make regulations, not inconsistent with this Act, in relation to the National Bank Service and, in particular, may prescribe the terms and conditions of employment of officers.

28. Superannuation fund

28.1 There shall be a superannuation fund of the Bank.

28.2 The Governor may, with the consent of the Treasurer, make rules, not inconsistent with this Act or the regulations, for or in relation to the superannuation fund.

29. Borrowing by officers

29.1 Subject to this section, the Bank shall not lend money to an officer.

29.2 The Bank may lend money to an officer:

- (a) for the purchase, erection, alteration, renovation or enlargement of a home in which he resides or intends to reside; or
- (b) to discharge a mortgage, charge or

encumbrance on such a home.

- 29.3 The Bank may, where the Governor is satisfied that special circumstances exist, lend to an officer, upon such terms and conditions as the Governor thinks fit, money not exceeding at any one time such amount as may from time to time be prescribed by regulation.

30. List of officers

- 30.1 The Bank shall, from time to time and whenever the Treasurer so directs, prepare a list of all officers, together with such particulars as the Treasurer requires, and shall circulate copies of the list among the officers.
- 30.2 The Bank shall forward a copy of the list to the Treasurer for presentation to the Parliament.

31. Balance sheets

- 31.1 The Governor shall, once in each year, prepare a balance-sheet of the Bank, of the General Banking Division, and of each Division of the Bank, and shall submit them to the Auditor-General for report as to their correctness or otherwise, and shall transmit them, together with the reports of the Auditor-General, to the Treasurer.
- 31.2 The Governor shall also transmit true copies of the balance sheets and reports 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.
- 31.3 Balance sheets under this section shall be prepared in accordance with the forms prescribed by the regulations.

32. Returns

- 33.1 The Bank shall furnish to the Treasurer such periodical statements as may be prescribed by the regulations.

33. Audit

- 33.1 The affairs of the Bank shall be subject to inspection and audit by the Auditor-General.
- 33.2 The inspection and audit shall be conducted not less often than yearly and the Auditor-General shall report to the Treasurer the result of each inspection and audit.

34. Power to improve property and carry on business

- 34.1 Where the Bank holds any property (whether real or personal) or business as security for any loan or advance, and the property or business falls into the hands of the Bank, the Bank may maintain, repair or improve the property, or carry on the business, until the Bank can, in its discretion, dispose of the property or business in the best interests of the Bank.

35. Extension of contracts

- 35.1 Contracts on behalf of the Bank may be made, varied or discharged in accordance with the

succeeding provisions of this section and all contracts so made shall be effectual in law, and shall be binding upon the Bank and on all other parties to the contract, their heirs, executors or administrators, as the case may be.

- 35.2 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.
- 35.3 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.
- 35.4 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.
- 35.5 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.

36. Seals

- 36.1 The common seal of the Bank shall be kept in such custody as the Governor determines and shall not be affixed to any document without the authority of the Governor or Deputy Governor.

37. Priority of debts due to other banks

- 37.1 Notwithstanding anything contained in any law relating to the winding-up of companies, debts due to the Bank by any bank shall, in the winding-up, have priority over all other debts other than debts due to the Commonwealth.

38. Delivery of bonds etc. on death of customer

- 38.1 Where a person dies and any bonds or securities of a like nature of a face value not exceeding in the whole Ten thousand dollars are held on his behalf by the Bank, 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 one month after the death of that person, the Bank may, in its discretion, deliver the bonds or securities to the widower or widow or some relation of that person or to such other person as the Bank in the circumstances thinks fit.
- 38.2 A person shall not have any claim against the

Bank in respect of anything done in pursuance of this section but nothing in this section shall relieve the person receiving the bonds or securities from any liability to account for or deal with the bonds or securities in accordance with law.

39. Investment of trust moneys

39.1 A trustee, executor or administrator may invest any trust moneys in his hands on deposit with the Bank.

39.2 Obligations of the Bank shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the Commonwealth or any officer or officers thereof.

40. Rules of the Bank

40.1 The Governor may, with the consent of the Treasurer, make rules, not inconsistent with this Act or the regulations made hereunder, for any of the following purposes:

- (a) the good governance 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.

41. Falsification of books etc.

41.1 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.

42. Misappropriation of money or property of the Bank

42.1 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.

43. Validity of acts and transactions of Bank

43.1 The validity of an act or transaction of the Bank shall not be called in question in any legal

proceedings on the ground that any provision of this Act has not been complied with.

44. Separate accounts for Divisions

44.1 The Bank shall keep the accounts and transactions of each Division of the Bank separate and distinct from the accounts and transactions of the other Divisions of the Bank.

45. Advances to Divisions by Bank

45.1 The Bank may transfer to each Division of the bank such amounts, and subject to such terms and conditions, as the Governor determines.

PART V—ISSUE OF DEBENTURES BY THE BANK

46. Issue of debentures

46.1 The Bank may from time to time issue debentures to such amount as it considers necessary.

47. Form of debentures

47.1 Debentures shall be in accordance with the form as determined by the Bank, and shall be under the common seal of the Bank, and shall be signed and countersigned on behalf of the Bank.

48. Interest and period of debentures

48.1 Debentures shall be for One hundred dollars or some multiple thereof, and shall bear interest at a rate to be fixed by the Bank before the issue thereof.

48.2 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.

49. Commonwealth guarantee of debentures

49.1 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.

50. Negotiability of debentures

50.1 Every debenture issued in pursuance of this Act shall be inscribed in the name of the applicant therefor, and shall only pass by assignment or indorsement and delivery to such assignee or endorsee.

51. Sale of debentures

51.1 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.

52 Forgery of securities

- 52.1 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.

- 52.2 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.

- 53.3 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.

53. Forfeiture of forged securities etc.

- 54.1 All forged securities of the Bank, and all unauthorised forms of security of the Bank, and all unauthorised 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 Crown and may be seized by any member of the police force of the Commonwealth or of a State.

PART VI—GENERAL BANKING DIVISION OF THE BANK

54. General banking business

- 53.1 The Commonwealth National Credit Bank shall carry on general banking business.
- 54.2 The Bank shall have such powers as are necessary for the purpose of carrying on general banking business and may, without limiting the generality of the foregoing, exercise all of the powers referred to in paragraph 8.3 of this Act.
- 54.3 The Bank shall carry on its general banking business in a division of the Bank to be known as the General Banking Division.
- 54.4 The Bank shall keep the accounts and transactions of the General Banking Division separate and distinct from the other accounts and

transactions of the Bank.

55. Bank to develop its general banking business

- 55.1 It shall be the duty of the Bank, through the General Banking Division, to develop and expand its general banking business.
- 55.2 The Bank, through the General Banking Division, shall not refuse to conduct banking business for any person, by reason only of the fact that to conduct that business would have the effect of taking away business from another bank.

56. Certain accounts not to be kept in General Banking Division

- 56.1 The Special Accounts established by banks for the purposes of section 17 of the National Credit Bank (Bank Regulation) Bill 2018 shall not be kept in the General Banking Division.

Division 1 - General Banking Business Mortgage Department

57. Establishment of Mortgage Bank Department

- 57.1 For the purposes of this Division, there shall be a Mortgage Department of the Bank.
- 57.2 The Bank shall keep the accounts and transactions of the Mortgage Bank Department separate and distinct from the other accounts and transactions of the Bank.

58. Funds of Bank not to be used except in accordance with Act

- 58.1 Except as expressly provided by this Act, the funds of the Bank shall not be used in the business of the Mortgage Department.

59. Advances by Treasurer

- 59.1 The Treasurer may make advances to the Bank, for the purposes of the Mortgage Department, of such amounts, and subject to such terms and conditions, as are agreed upon between the Treasurer and the Bank.
- 59.2 The Treasurer may from time to time, under the provisions of the Commonwealth Inscribed Stock Act 1911, borrow money for the purpose of making advances to the Mortgage Department under this section.
- 59.3 The Bank shall pay to the Treasurer half-yearly out of the funds of the Mortgage 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 subsection - 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.
- 59.4 For the purposes of the last preceding subsection, 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.

60. Loans by Department

- 60.1 Subject to this Part, loans may be made by the Bank through the Mortgage 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 owned by the borrower, where the land is used or is 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.
- 60.2 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.
- 60.3 A loan shall not 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, to a State, to the Administration in any Territory being part of the Commonwealth, or to any statutory authority of the Commonwealth, or of a State or Territory of the Commonwealth) unless the prior mortgage or charge is discharged out of the money lent or otherwise.
- 60.4 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 on the money, 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.
- 60.5 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.

60.6 The Bank shall refer to the following provisions for a framework making loans:

- (a) Maturity of loans and discounts should coincide with time periods of anticipated profitability and projected useful life of the facilities financed with such loans and discounts.
- (b) The Bank may make loans for companies involved in manufacturing, for additional needs of capital expansion.
- (c) The Bank may also extend the time of payment of a loan, through renewal, substitution of new obligations, or otherwise, with a maximum time for such renewal to be established by the Bank. The Bank may make such further loans and contracts for the completion of projects or additions, improvements, and extensions necessary for proper functioning of the project and which will increase assurance of the borrower to repay the entire loan or loans.
- (d) In addition to direct loans, it may make loans in co-operation with other lending institutions. The Bank may participate in such loans up to 50%. Subject to the provisions of this Act, the Bank may discount for, or purchase from, any bank, trust company, mortgage company, credit corporation for industry, or other financing institution; it may make loans directly to any such financing institution on the security of such obligations; and make commitments with regard to such discount or purchase of obligations or with respect to such loans or advances on the security thereof.
- (e) In exceptional circumstances, when it appears to the satisfaction of the Bank that an established industrial or commercial business located is unable to obtain requisite financial assistance on a reasonable basis from the usual sources, the Bank may make advances to, or purchase obligations of, such business, or may make commitments with respect thereto, for the purpose of providing it with working capital. The Bank may assist in developing and effectuating plans for the reorganization or refinancing of any such business, and in connection therewith, may act under proper appointment as receiver therefor, or in any capacity similar thereto.

61 Terms & conditions of loans

61.1 Subject to this Division, a loan made under this Division shall be on such terms and conditions as the Bank determines.

62 Period of loans

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

63. Amount of loans

63.1 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.

64. Loans repayable by periodic instalments

64.1 A mortgage given as security for repayment of a loan under this Division 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.

64.2 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.

65. Repayment of loans before maturity

65.1 A person indebted to the Bank in respect of a loan made under this Division 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.

65.2 A person indebted to the Bank in respect of a loan made under this Division may, at any time, pay to the Bank any portion of the loan (being not less than One thousand dollars) 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.

65.3 Interest so credited shall bear interest in the same manner as, payments made under the last preceding sub-section.

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

65.5 The Bank may, in 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.

65.6 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.

66. Provisions where mortgaged land transferred etc.

66.1 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.

66.2 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.

67. Arrangements with State authorities

67.1 The Bank may 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 Division as are specified in the agreement.

68. Division not to limit Bank's powers

68.1 Nothing in this Division shall be taken to limit the powers of the Bank under any other provision of this Act.

Division 2 - General Banking Business Housing Department

69. Housing loans

69.1 Subject to this Division, loans may be made by the Bank through the General Banking Business Housing Department, to individuals, to building societies, to credit unions and to banks licensed under the National Credit Bank (Bank Regulation) Bill 2018 for the erection or purchase of homes or for the discharge of mortgages on

homes.

69.2 In making such loans, the Bank shall give preference to loans for the erection of homes and for the purchase of newly erected homes.

70. Rates of interest

70.1 Loans under this Division shall be made at the lowest practicable rates of interest.

71. Part not to limit Bank's powers

71.1 Nothing in this Division shall be taken to limit the powers of the Bank under any other provision of this Act.

72. Loans to Individuals

72.1 Loans to individuals shall be made, on *credit foncier* terms, under and in accordance with the provisions of this Division.

73. Circumstances in which loans may be made

73.1 A loan shall not be made under this Division unless the Bank is satisfied that the borrower is residing in the home, or will reside in the home within a reasonable time.

74. Loans to be made on mortgage

74.1 A loan under this Division shall be made upon the security of a mortgage to the Bank of an estate or interest in land in Australia owned by the borrower.

74.2 A loan shall not be made under this Division 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 statutory charge to the Commonwealth, a State, the Administration in any Territory of the Commonwealth, or to any statutory authority of the Commonwealth or of a State or Territory of the Commonwealth) unless the prior mortgage or charge is discharged out of the money lent or otherwise.

74.3 The owner of any estate or interest in land upon the security of which a loan has been made under this Division 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.

75. Terms and conditions of loans

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

76. Period of loans

76.1 A loan under this Division shall not be made for a period of less than five years or for a period of more than thirty-five years.

77. Amount of loans

77.1 The amount of a loan under this Division shall not exceed eighty-five per centum of the value (as determined by the Bank) of the estate or interest

in land on which the loan is secured.

78. Loans repayable by periodical instalments

78.1 A mortgage given as security for repayment of a loan under this Division shall provide for the payment of monthly or, at the option of the Bank, quarterly, 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.

79. Power to insure homes

79.1 The Bank may undertake the insurance of any home in respect of which a loan is made under this Division.

80. Loans to Building Societies and Credit Unions

80.1 In this Division, “**building society**” means any building society specified by Regulation as being a building society to which this Division applies and any building society included in a class of building societies specified by Regulation as being a class of building societies to which this Division applies.

80.2 In this Division, “**credit union**” means any credit union specified by Regulation as being a credit union to which this Division applies and any credit union included in a class of credit unions specified by Regulation as being a class of credit unions to which this Division applies.

81. Terms and conditions of loans

82.1 Subject to this Part, loans to building societies shall be made on such security, and on such terms and conditions, as the Bank determines.

82. Amount of loans

82.1 Where a loan under this Division is made to a building society, credit union or bank in respect of a home for the erection or purchase of which, or for the discharge of a mortgage on which, the building society, credit union or bank has made a loan, the amount of the loan under this Division shall not exceed ninety per centum of the value (as determined by the Bank) of the estate or interest in land on which the loan made by the building society, credit union or bank is secured.

PART VII—RESERVE DIVISION OF THE BANK

83. Establishment of Reserve Division

83.1 For the purposes of this Part, there shall be a Reserve Division of the Bank.

83.2 The Bank shall keep the accounts and transactions of the Reserve Division separate and distinct from the other accounts and transactions of the Bank.

84. Reserve Division responsible for Bank licensing & regulation

84.1 The Reserve Division shall be responsible for the undertaking of the obligations of the Bank in the licensing and regulation of banks as provided for

in the National Credit Bank (Bank Regulation) Act.

85. Banks to be licenced & regulated

85.1 A body corporate shall not, at any time after the commencement of the National Credit Bank (Bank Regulation) Act carry on any banking business in Australia unless the body corporate is in possession of an authority in writing granted by the Bank under the National Credit Bank (Bank Regulation) Act to carry on banking business.

Penalty: Three hundred and Fifty thousand dollars for each day during which the contravention continues.

PART VIII—NOTE ISSUE DIVISION

Division 1. - General

86. Definitions

86.1 In this Part, unless the contrary intention appears:

Australian note means a note issued in pursuance of the Australian Notes Act 1910, in pursuance of Part VII. of the Commonwealth Bank Act 1911 or in pursuance of this Part;

constable means and includes any member of the police force of the Commonwealth or of a State or Territory of the Commonwealth;

the Note Issue Department means the Note Issue Department of the Commonwealth National Credit Bank established in pursuance of this Part.

87. Establishment of Note Issue Division

87.1 For the purposes of this Part, there shall be a Note Issue Division of the Bank.

88.2 The Bank shall keep the accounts and transactions of the Note Issue Division separate and distinct from the other accounts and transactions of the Bank.

89. Issue, re-issue and cancellation of notes

89.1 Subject to this Act, the Bank may, through the Note Issue Department:

- (a) issue Australian notes;
- (b) re-issue Australian notes; and
- (c) cancel Australian notes.

89.2 Australian notes shall be printed by, or under the authority of, the Bank.

90. Denomination of notes

90.1 Australian notes may be issued in any of the following denominations, namely, Five dollars, Ten dollars, Twenty dollars, Fifty dollars or One hundred dollars or in any other denomination that the Bank with the consent of the Treasurer may determine.

91. Notes to be legal tender

91.1 Australian notes shall be a legal tender throughout Australia.

92. Signature on notes

92.1 Australian notes issued in pursuance of this Part shall bear the signature of the Secretary to the Department of the Treasury or of such other officer of the Department of the Treasury as the Treasurer directs, and the signature of the Governor of the Bank or of such officer of the Bank as the Governor of the Bank directs.

92.2 The signatures may be made in the hand-writing of those persons or may be made by engraving or any other process determined by the Bank.

93. Monthly statements of notes issued

93.1 As soon as practicable after the last Monday in each month, an officer appointed for the purpose by the Governor of the Bank shall prepare and sign a statement showing, as at the close of business on that day, the number and amount of Australian notes on issue.

93.2 Every such statement shall be countersigned by the Governor or Deputy Governor, shall be forwarded to the Treasurer and shall be published in the *Gazette*.

94. Banks to furnish returns of notes held

94.1 Every bank shall, as soon as practicable, furnish to the Bank at its head office a return in accordance with the form as prescribed by the Bank showing the amount of Australian notes held by that bank as at the close of business on Monday in each week.

Penalty: Fifteen thousand dollars

95. Bank not to issue bank bills or notes

95.1 The Bank shall not issue bills or notes (other than Australian notes) intended for circulation as money.

96. Other persons not to issue bank notes

96.1 A person (including a State) shall not issue a bill or note for the payment of money payable to bearer on demand and intended for circulation.

Penalty: Fifty thousand dollars

Division 2. - Offences relating to Australian Notes

97. Definition

97.1 In this Division, “**form of any Australian note**” means any form of an Australian note, not being a genuine Australian note, intended or likely to pass for an Australian note and includes any part, of any such form.

98. Forging or uttering notes

98.1 A person shall not, with intent to defraud, forge or utter knowing it to be forged, any Australian note.

Penalty: Imprisonment for fourteen years.

99. Possession of forged notes

99.1 A person shall not, without lawful excuse, have in his possession any forged Australian note.

Penalty: Imprisonment for four years.

100. Making etc. of false forms

100.1 A person shall not, without the authority of the Bank, make or have in his possession:

- (a) any form of any Australian note;
- (b) any instrument or thing which may be used in making any form of any Australian note.

Penalty: Imprisonment for four years.

101. Alteration of notes forbidden

101.1 A person shall not, with intent to defraud, alter the amount of any Australian note.

Penalty: Imprisonment for eight years

102. Copying of notes forbidden

102.1 A person shall not, without the authority of the Bank, make or have in his possession:

- (a) any copy of an Australian note; or
- (b) any writing, engraving, photograph or print resembling an Australian note or apparently intended to be, or to pass for, a copy of an Australian note.

Penalty: Fifteen thousand dollars or imprisonment for one year, or both.

102.2 This section shall not affect the liability of any person to be proceeded against for a higher offence, but a person shall not be liable to be punished twice in respect of the same act.

102.3 In this section, the expression “**copy of an Australian note**” includes any representation or negative of an Australian note or part of an Australian note in any size or scale and any copy of an Australian note or part of an Australian note in any size or scale.

103. Defacing etc. of notes

103.1 A person shall not:

- (a) wilfully deface, disfigure or mutilate any Australian note;
- (b) make on, or attach to, any Australian note any advertisement; or
- (c) design, make, issue or circulate any advertisement which is in the form of, resembles, or is apparently intended to resemble, any Australian note or part of any Australian note.

Penalty: Ten thousand dollars

104. Forfeiture of illicit forms

104.1 Any form of any Australian note, and any instrument or thing which may be used in making any form of any Australian note shall, if made by or in the possession of any person

without the authority of the Bank, be forfeited to the Commonwealth.

104.2 Any constable may at any time seize any article forfeited under this section or any article which he has reasonable grounds to believe is forfeited under this section and bring it before a court of summary jurisdiction.

104.3 A court of summary jurisdiction may, after such notice (if any) and to such person (if any) as it thinks fit to direct, order any article seized in pursuance of this section or the next succeeding section to be condemned or to be returned to the person from whom it was seized.

104.4 Any article condemned in pursuance of this section shall be dealt with as the Treasurer directs and, pending his direction, may be detained in such custody as the court directs.

105. Search warrants

105.1 If a justice of the peace is satisfied by information made on oath by any constable that the constable has reasonable grounds to believe that any article forfeited under the last preceding section is in any building or place, the justice of the peace may grant a search warrant authorising any constable named in the warrant, with such assistance as he thinks necessary, to enter and search the building or place mentioned in the warrant, and for that purpose the constable may break open any part of the building or place and break open any article in the building or place and may seize and take away any article which he has reasonable grounds to believe is forfeited under the last preceding section and shall bring it before a court of summary jurisdiction.

105.2 The laws of the State or Territory of the Commonwealth in which any such search warrant is granted shall, so far as applicable, apply to that search warrant.

106. Counterfeit notes to be marked

106.1 Every officer charged with the receipt or disbursement of public moneys and every officer of a bank shall stamp or write in plain letters the word “**counterfeit**”, “**altered**” or “**worthless**” upon every counterfeit or forged note in the form of an Australian note which is presented to him at his place of business.

PART IX—NATIONAL DEVELOPMENT DIVISION

107. Establishment of National Development Division

107.1 For the purposes of this Part, there shall be a National Development Division of the Bank.

107.2 The National Development Division shall be responsible for the provision of credit for the establishment and maintenance of publicly owned infrastructure of national importance including:

- (a) surface transportation and ports;
- (b) water management and supply, drought, flood and storm protection;
- (c) electrical energy production and distribution.

107.3 The Divisions may:

- (a) make loans to agencies of the Commonwealth and the States created for such projects;
- (b) provide credit to state and municipal capital projects by purchase of State and municipal bonds as issued;
- (c) provide loans to businesses and banks participating in such projects.

107.4 The Division shall coordinate, regulate, and maintain a system of credit based on the inherent cycles of industry, agriculture, and trade.

107.5 The Division shall, in the making of such loans and the provision of such credit, assist in the transition from a speculative to a production-based commercial banking system.

107.6 The Division shall not make loans to or for the financing of infrastructure either directly or indirectly where such infrastructure construction or maintenance shall be undertaken as a public-private partnership and such infrastructure shall not be publicly owned, operated and controlled.

107.7 For the purposes of this Division a **public-private partnership** in relation to infrastructure means a contract or arrangement between Commonwealth, State or Local Government or a Commonwealth, State or Local Government entity or authority and a private entity which private entity will finance, construct, or manage an infrastructure project in return for a promised stream of payments directly from government or indirectly from users over the projected life of the project or some other specified period of time and is thereby related to concepts of privatisation and the contracting out of government services.

107.8 The provisions of this Section shall not prevent the Division from providing credit or loans for the financing of infrastructure where such infrastructure is or shall be publicly owned from the time of its creation and the creation or maintenance of such infrastructure shall be undertaken by subcontracting to non-government interests on a fee-for-service basis.

107.9 The Bank shall keep the accounts and transactions of the National Development Division separate and distinct from the other accounts and transactions of the Bank.

108. Lending and credit priorities

108.1 Industrial and agricultural production and

construction related to the following shall take priority in the lending of the Division:

- (a) construction and other such companies contracted by the Commonwealth and States related to national drought and flood control infrastructure, for the construction of plant capacity, construction of storage reservoirs, canals, aqueducts, pipelines, pumping stations, power stations, lock and barge transit corridors, and railway construction;
- (b) manufacturers of excavators and large-capacity trucks and other earth-moving equipment, heavy-capacity cranes, tunnel-boring machines, and drilling machines;
- (c) manufacturers of large motors, large-capacity pumps, valves, fittings, intake and discharge headers; mining companies which mine limestone, copper, or maintain rock quarries;
- (d) mills which produce cement, steel, aluminium, and copper; foundries and smelters engaged in heavy rolling, forming, and production of metallurgy components;
- (e) manufacturers of machine tools;
- (f) manufacturers of forebay, penstocks, head gates, turbine wheels, impellers, generating units, switchgear, transmission lines; manufacturers of double-steel mitre gates and other components for waterways;
- (g) manufacturers of components of nuclear power plants;
- (h) manufacturers of locomotives and rail lines.

108.2 The Bank shall have access to information on the progress of entities to which it lends for the purposes of this Division, and be kept informed of the schedule of Commonwealth and State contracts associated with national and State water and power regulation, in order to alter its loans, as appropriate for the schedule and progress of developed plant capacity, production, and construction.

PART X.—STATE & LOCAL GOVERNMENT DIVISION

109. Establishment of State & Local Government Division

109.1 For the purposes of this Part, there shall be a State & Local Government Division of the Bank.

109.2 The State & Local Government Division shall be responsible for the provision of credit to State and Local Governments for the establishment and maintenance of self-liquidating infrastructure and other works and services the primary responsibility of State, Territory and Local Governments.

109.3 The Bank shall keep the accounts and transactions of the State & Local Government Division separate and distinct from the other accounts and transactions of the Bank.

110. Loans to States and Local Governments

110.1 The Bank is authorised and empowered:

- (a) to grant credit or make loans to, or contracts with, States, Territories and Local Governments within the Commonwealth and public agencies of such States, Territories and Local Governments, public corporations, boards and commissions, and public municipal instrumentalities of one or more States, to aid in financing projects authorised under Commonwealth, State, Territory or Local Government law, such credit or loans or contracts may be made through the purchase of their securities, or otherwise;
- (b) to grant credit or make loans to corporations formed wholly for the purpose of providing housing for families of low income, or for reconstruction of slum areas, which are regulated by State or Local Government law as to rents, charges, capital structure, rate of return, and areas and methods of operation, to aid in financing projects undertaken by such corporations;
- (c) to grant credit or make loans to private corporations to aid in carrying out the construction, replacement, or improvement of publicly owned bridges, tunnels, docks, viaducts, waterworks, canals, and markets, devoted to public use;
- (d) to grant credit or make loans to aid in financing the construction of any publicly owned bridge to be used for railway and highway uses, the construction cost of which may be returned in part by means of tolls, fees, rents, or other charges, and the remainder by means of taxes imposed pursuant to State or Local Government law; and the Bank is further authorised and empowered to purchase bonds of any State, municipality, or other public body or agency issued for the purpose of financing the construction of any such bridge.

110.2 This Section shall not authorise the Division to make loans to or for the financing of infrastructure either directly or indirectly where such infrastructure construction or maintenance shall be undertaken as a public-private partnership and such infrastructure shall not be publicly owned, operated and controlled.

PART XI.—STATUTORY AUTHORITIES, SCIENTIFIC & EDUCATIONAL INSTITUTIONS DIVISION

111. Establishment of Statutory Authorities, Scientific & Educational Institutions Division

111.1 For the purposes of this Part, there shall be a Statutory Authorities, Scientific & Educational Institutions Division of the Bank.

111.2 The Statutory Authorities, Scientific and Educational Institutions Division, shall be responsible for the provision of credit to provide for the capital costs of land, buildings, plant, machinery, and tangible items, as well as for scientific and technological research and development costs for statutory authorities, scientific and educational institutions with a view to a rise in both the physical output of the nation and the rate of introduction of new technologies into the economy.

111.3 In determining whether or not finance shall be provided under this Part for the establishment or development of a scientific project or undertaking, the Bank shall have regard primarily to the prospects of the undertaking or project continuing to be, or becoming, an undertaking of importance to Australia's scientific and technological development and shall not necessarily have regard to the present value of the assets of the undertaking.

111.4 The Bank shall keep the accounts and transactions of the Statutory Authorities, Scientific & Educational Institutions Division separate and distinct from the other accounts and transactions of the Bank.

112. Functions of Division

112.1 The functions of the Statutory Authorities, Scientific & Educational Institutions Division of the Bank shall include:

- (a) the provision of credit and funding of scientific and technological research for any of the following purposes:
 - (i) assisting Australian industry;
 - (ii) furthering the interests of the Australian community;
 - (iii) contributing to the achievement of Australian national objectives or the performance of the national and international responsibilities of the Commonwealth;
 - (iv) any other purpose determined by the Bank with the consent of the Treasurer;
- (b) to provide credit and fund and encourage or facilitate the application or utilisation of the results of such research;
- (c) to provide credit and fund and encourage or facilitate the application or utilisation of the results of any other scientific

- research;
- (d) to provide credit and fund the capital costs of land, buildings, plant, machinery and equipment in the provision of facilities, in relation to science.

113. Advances by Bank

113.1 Subject, to this Part, advances may be made by the Bank, through the Statutory Authorities, Scientific & Educational Division, upon such other security associated with the advancement of science and technology as the Bank thinks fit, to:

- (a) scientific bodies and research institution;
- (b) universities and other places of learning and education;
- (c) such bodies, whether corporate or unincorporate, formed under the laws of the Commonwealth or of a State or Territory of the Commonwealth as are specified by Regulation;
- (d) provide finance to banks and lenders for the purpose of enabling those banks and lenders to make loans with a view to increasing the availability of loan funds for purposes relating to science and technology.
- (e) In determining whether or not finance shall be provided pursuant to this Section, the Bank shall have regard primarily to the prospects of the undertaking or project continuing to be, or becoming, an undertaking of importance to Australia's scientific and technological development and shall not necessarily have regard to the present value of the assets of the undertaking.

PART XII.—PRIMARY INDUSTRIES DIVISION

114. Establishment of Division

- 114.1 For the purposes of this Part, there shall be a Primary Industries Division of the Bank.
- 114.2 The Primary Industries Division shall be responsible for the provision of credit for family farmers and others involved in primary production.
- 114.3 The Bank shall keep the accounts and transactions of the Primary Industries Division separate and distinct from the other accounts and transactions of the Bank.

115. Definitions

- 115.1 **primary producer** means a person carrying on the business of primary production;
- primary production** means production resulting directly from:
 - (a) the cultivation of land;
 - (b) the maintenance of animals or poultry for

- the purpose of selling them or their bodily produce, including natural increase;
 - (c) fishing operations; or
 - (d) forest operations,
- and includes the manufacture of dairy produce by the person who produces the raw material used in that manufacture.

116. Loans by Bank

- 116.1 The Bank may, from time to time, subject to such terms and conditions as may be determined by the Bank, provide finance to banks and lenders to enable such banks and lenders to make loans on terms more favourable to the borrowers than would otherwise be practicable, and such terms and conditions may fix, or otherwise make provision with respect to, rates of interest to be payable in respect of such loans.
- 116.2 Loans made available by the Division shall be made for the purpose of making loans or advances to farmers in the Commonwealth in cases where the Bank finds that an emergency exists as a result of which farmers are unable to obtain loans for crop production: Provided further, that the Bank shall give preference in making such loans or advances to farmers who have suffered from crop failures. Such advances or loans shall be made upon such terms and conditions and subject to such regulations as the Bank shall prescribe. A first charge on all crops growing, or to be planted and grown, shall, in the discretion of the Bank, be deemed sufficient security for such loan or advance. All such loans or advances shall be made by the Bank or through such agencies as the Bank may designate, and in such amounts as such agencies, with the approval of the Bank, may determine. Any person who shall knowingly make any material false representation for the purpose of obtaining an advance or loan or in assisting in obtaining such advance or loan under this section shall, upon conviction thereof, be punished by a fine of not exceeding \$10,000 or by imprisonment not exceeding six months, or both.
- 116.3 In order that the surpluses of agricultural products may not have a depressing effect upon current prices of such products, the Bank is authorised and directed to make loans, in such amounts as may in its judgment be necessary, for the purpose of financing sales of such surpluses in the markets of foreign countries in which such sales can not be financed in the normal course of commerce; but no such sales shall be financed by the Bank if, in its judgment, such sales will affect adversely the world markets for such products.
- 116.4 The Bank is authorised and empowered to make loans to bona fide institutions, organized under the laws of the Commonwealth or a State or Territory of the Commonwealth and having resources adequate for their undertakings, for

the purpose of enabling them to finance the carrying and orderly marketing of agricultural commodities and livestock produced in the Commonwealth.

- 116.5 The Bank is further authorised to create where it may deem the same to be desirable agencies or regional agricultural credit corporations to be managed by officers and agents to be appointed by the Bank under such rules and regulations as the Bank may prescribe. The Bank may directly or through such agencies and corporations make loans or advances to farmers and stockmen, the proceeds of which are to be used for an agricultural purpose (including crop production), or for the raising, breeding, fattening, or marketing of livestock, to charge such rates of interest or discount thereon as in their judgment are fair and equitable, subject to the approval of the Bank. All loans made under this section shall be fully and adequately secured.
- 116.6 The Bank, under such conditions as it shall prescribe, may take over or provide for the administration and liquidation of any collateral accepted by it as security for loans. Such loans shall be made on such terms and conditions, not inconsistent with this act, as the Bank may determine, and may be made directly upon promissory notes or by way of discount or re-discount of obligations tendered for the purpose, or otherwise in such form and in such amount and at such interest or discount rates as the Bank may approve: Provided that no loans or advances shall be made upon foreign securities or foreign acceptances as collateral.
- 116.7 No fee or commission shall be paid by any applicant for a loan under the provisions of this section in connection with any such application or any loan made or to be made under this section, and the agreement to pay or payment of any such fee or commission shall be unlawful and void.

117. Advances by Division to Banks and lenders

- 117.1 Subject, to this Part, advances may be made by the Bank, through the Primary Industries Division, upon the security of primary produce placed under the legal control of the Bank and upon such other security associated with the production or marketing of primary produce as the Bank thinks fit, to:
- (a) co-operative associations or marketing boards formed under the law of the Commonwealth or of a State or Territory of the Commonwealth;
 - (b) such bodies, whether corporate or unincorporate, formed under the laws of the Commonwealth or of a State or Territory of the Commonwealth as are specified by Regulation;
 - (c) provide finance to banks and lenders

for the purpose of enabling those banks and lenders to make loans with a view to increasing the availability of loan funds for purposes relating to primary production, being purposes that are commercially sound, to persons who are, or have a reasonable prospect of, successfully carrying on the business of primary production.

118. Discounting of bills

- 118.1 In lieu of making advances in accordance with the provisions of this Part, the Bank may, through the Primary Industries Division, on behalf of any body specified in paragraph (a) or (b) of section 138 of this Act, discount bills secured upon primary produce placed under the legal control of the Bank.

119. Part not to limit Bank's powers

- 119.1 Nothing in this Part shall be taken to limit the powers of the Bank under any other provisions of this Act.

PART XIII.—MANUFACTURING & INDUSTRIAL FINANCE DIVISION

120. Establishment of Manufacturing & Industrial Finance Division

- 120.1 For the purposes of this Part, there shall be a Manufacturing & Industrial Finance Division of the Bank.
- 120.2 The Bank shall keep the accounts and transactions of the Manufacturing & Industrial Finance Department separate.

121. Functions of the Division

- 121.1 The functions of the Manufacturing & Industrial Finance Division are:
- 121.1 to provide finance for the establishment and development of industrial undertakings, particularly small undertakings;
 - 121.2 to assist in the establishment and development of industrial undertakings;
 - 121.3 to provide advice on the operations of industrial undertakings with a view to promoting the efficient organization and conduct thereof;
 - 121.4 to facilitate and encourage, and to facilitate participation by Australian residents and enterprises in, the establishment, development and advancement of Australian industries by providing, or assisting in the provision of, the financial resources required by persons engaging, or proposing to engage, in any such industries or in activities that are connected with, or incidental to, those industries; and
 - 121.5 to secure, to the greatest extent that is practicable, participation by Australian residents in the ownership and control of businesses engaging in any such industries or activities; and
 - 121.6 such other functions as are conferred on the Bank

and this Division by or pursuant to this Act.

122. Decisions of the Division

- 122.1 In the performance of its functions the Bank shall have regard to the current monetary policy of the Commonwealth Government and to the policies of the Commonwealth Government in relation to trade practices, the environment, industrial relations, urban and regional development and the efficiency of industry.
- 122.2 The Division shall give priority in the performance of its functions to serving the financial needs of industries concerned with, or activities connected with or incidental to:
- (a) the manufacture, assembly, construction, processing, treatment, transportation or distribution of goods;
 - (b) the provision of services (including services in the tourist industry) of a kind that are or may become subject to competition in markets within or outside Australia from industries outside Australia; and
 - (c) the development, marketing or use of new or improved technology, including research leading to such development, marketing or use.
- 122.3 The Division shall, in deciding whether to provide finance to a particular person or a particular enterprise or project, have regard to:
- (a) the importance of the industry concerned to the Australian economy; and
 - (b) the extent to which the provision of that finance to that enterprise or project, would contribute to the effective performance of the functions of the Division.
- 122.4 The Treasurer may, from time to time, by notice in writing to the Bank, inform the Bank of the policy of the Commonwealth Government in relation to the establishment, development and advancement of an industry or project referred to in the notice or in relation to the participation by Australian residents in such an industry or project or in an activity that is connected with or incidental to such an industry or project and that the enterprise or project should be carried out and that the Bank should provide finance in relation to, or engage or participate in, the enterprise or project.
- 122.5 Where the provision of finance by the Bank in relation to an enterprise or project the subject of a notice as referred to in clause 122.4 would be within the functions of this Division of the Bank and the Bank decides for any reason not to provide finance for the enterprise or project, the Bank shall furnish to the Treasurer a report in writing in relation to the enterprise or project.
- 122.6 If the Treasurer considers that the carrying out of an enterprise or project in connexion with an industry or activity referred to in subsection 122.4 and the provision of finance by the Bank in relation to the enterprise or project would be in accordance with the policy of the Commonwealth Government in relation to the establishment, development or advancement of the industry or in relation to the participation by Australian residents in the industry or activity, the Treasurer may direct the Bank to furnish a report in writing in relation to the enterprise or project.
- 122.7 Where the Bank is required by subsection 148.5, or by a direction given by the Minister under subsection 122.6, to furnish a report to the Treasurer in relation to an enterprise or project, the Bank shall conduct such inquiries, investigations, studies or negotiations in connection with the enterprise or project as are necessary to determine whether, and by what means, the Commonwealth Government could enable the Bank to provide finance for the enterprise or project and shall include the results of the inquiries, investigations, studies or negotiations in the report.
- 122.8 Where, after having received a report in pursuance of subsection 122.5 or subsection 122.6 in relation to an enterprise or project, the Treasurer is of the opinion that it is in the national interest that the Commonwealth Government should facilitate the provision of finance by the Bank in relation to the enterprise or project, the Treasurer may:
- (a) give such guarantees as will enable the Bank to provide finance for the enterprise or project; or
 - (b) out of moneys appropriated by the Parliament for the purpose, make payments to the Bank (whether by way of loan or otherwise) for use by the Bank in providing finance for the enterprise or project on such terms and conditions as the Treasurer determines.
- 122.9 The Treasurer shall not give a guarantee under subsection 122.8(a) unless each House of the Parliament has passed a resolution approving the giving of the guarantee.
- 122.10 Where any moneys are lent to the Bank in accordance with paragraph 122.8(b) in relation to an enterprise or project:
- (a) the Bank shall apply those moneys for the

purpose for which they were lent to the Bank; and

- (b) the Bank shall not repay those moneys, or pay interest on those moneys, out of moneys of the Bank other than moneys, or the proceeds of the sale of assets, acquired by the Bank as a result of the application of the first-mentioned moneys in providing finance in relation to the enterprise or project.

122.11 Where any moneys are paid (otherwise than by way of loan) to the Bank in accordance with paragraph 122.8.2 in relation to an enterprise or project, the Bank shall apply those moneys for the purpose for which they were paid to the Bank.

122.12 Where moneys are paid to or borrowed by the Bank in pursuance of paragraph 122.8.2, the Treasurer is liable to reimburse the Bank for any expenses (including expenses of management or administration), charges, obligations or liabilities incurred or undertaken by the Bank in applying those moneys to the extent, if any, to which the Bank is not able to pay or discharge those expenses, charges, obligations or liabilities out of those moneys or out of income or profits derived by the Bank from the application of those moneys.

123. Circumstances to be considered in providing finance

123.1 The Bank shall not provide finance under this Part for the establishment or development of an industrial undertaking, unless the Bank is satisfied that the industrial undertaking has reasonable prospects of continuing to be, or of becoming, a profitable undertaking or be in the national interest.

123.2 In determining whether or not finance shall be provided under this Part for the establishment or development of an industrial undertaking, the Bank shall have regard primarily to the prospects of the undertaking continuing to be, or becoming, a profitable undertaking or be in the national interest and shall not necessarily have regard to the present value of the assets of the undertaking.

124. Terms and conditions

124.1 Finance provided under this Part shall be provided on such terms and conditions as the Bank determines.

125. General Manager of Division

125.1 There shall be a General Manager of the Manufacturing & Industrial Finance Division, who shall be appointed by the Governor and shall hold office for such term or terms and upon such terms and conditions as may be determined by the Governor.

125.2 The General Manager of the Manufacturing & Industrial Finance Division shall be paid such salary and allowances as the Governor determines.

125.3 The General Manager of the Manufacturing & Industrial Finance Division shall be deemed to have vacated his office if:

- (a) he engages in any paid employment outside the duties of his office;
- (b) he becomes bankrupt or insolvent, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (c) he becomes permanently incapable of performing his duties.

126. Management of Division

126.1 The General Manager of the Manufacturing & Industrial Finance Division shall, under the Governor, manage that Division.

127. Powers of Division

127.1 The Bank shall have, and may exercise through the Manufacturing & Industrial Finance Division, such powers as are necessary for the exercise of the functions of the Manufacturing & Industrial Finance Division and, without limiting the generality of the foregoing, may, through the Manufacturing & Industrial Finance Division:

- (a) lend money; and
- (b) purchase or otherwise acquire shares and securities and sell or otherwise dispose of shares and securities so purchased or acquired.

128. Provision of staff and expert advice

128.1 For the purposes of the efficient operation of the Manufacturing & Industrial Finance Division, the Bank shall:

- (a) employ officers adequately experienced in the financing, organisation and conduct of manufacturing and industrial undertakings; and
- (b) obtain such expert advice as is necessary.

129. Bank's receipts and expenditure in relation to Department

129.1 The Governor may allot to the Manufacturing & Industrial Finance Division such portion of the general receipts and expenditure of the Bank as, in his opinion, is referable to that Division.

130. Part not to limit Bank's powers

130.1 Nothing in this Part shall be taken to limit the powers of the Bank under any other provisions of this Act.

PART XIV.—INTERNATIONAL DIVISION

131. Establishment of International Division

131.1 For the purposes of this Part, there shall be an

International Division of the Bank.

- 131.2 The International Division shall be responsible for the administration of exchange controls, and provisions relating to the exchange and clearance of financial instruments and other international matters.
- 131.3 The Bank shall keep the accounts and transactions of the International Division separate and distinct from the other accounts and transactions of the Bank.

132. Foreign Currency

- 132.1 The Bank may, from time to time, by notice in writing, require each bank to transfer to the Bank an amount of Australia currency equivalent to such proportion as is specified in the notice of that bank's excess receipts of foreign currency as at the close of business on a date specified in the notice, not being more than twenty-one days before the date on which the notice is given.
- 132.2 The proportion specified in any notice under the last preceding sub-section shall be the same in respect of each bank.
- 132.3 Where, as at the close of business on a date specified in a notice under section 132.1, a bank has not transferred an amount of Australian currency equivalent which it has been required to transfer in pursuance of any previous notice under that section, the excess receipts of foreign currency to that amount of Australian currency equivalent shall not, for the purpose of calculating the amount of Australian currency equivalent required to be transferred in pursuance of the first-mentioned notice, be taken into account as part of the excess receipts of foreign currency of that bank.
- 132.4 Each bank shall comply with the requirements of any notice under section 132.1 within seven days after the receipt of the notice by the bank or within such further period as is specified by the Bank.
- Penalty: Fifty thousand dollars for each day during which the contravention continues.
- 132.5 A bank shall be deemed to have complied with the requirements of any notice under section 132.1 if it transfers to the Bank an amount of Australian currency equivalent to the specified proportion of that bank's excess receipts of foreign currency, as shown in that bank's books of account, as at the close of business on the date in question.
- 132.6 Where any bank's assets outside Australia attributable to, or acquired by virtue of, its Australian business include foreign currency which is not freely convertible into Australian currency, the Bank shall make such adjustment in the amount of Australian currency equivalent required to be transferred

by that bank to the Bank under this section as appears to the Bank to be necessary in the circumstances.

133. Payment for transferred foreign currency

- 133.1 The Bank shall pay to any bank transferring any Australian currency equivalent in compliance with a notice under the last preceding section, such amount in Australian currency as is agreed upon between the Bank and the bank transferring the Australian currency equivalent or, in default of agreement, as is determined in an action for compensation by that bank against the Bank.

134. Sale of foreign currency by Bank

- 134.1 The Bank may sell foreign currency to a bank:
- where the Bank is satisfied that that bank has complied with the provisions of this Division and is likely to suffer a shortage of foreign currency: or
 - if the Bank considers that, for any other reason, it is desirable to do so.

135. Interpretation

- 135.1 In this Division:

excess receipts of foreign currency, in relation to any bank as at any date, means the amount by which the amount of that bank's surplus foreign currency as at that date exceeds the amount of its surplus foreign currency as at the date of commencement of this Division;

surplus foreign currency, in relation to any bank, means the amount by which the amount of that bank's assets outside Australia attributable to, or acquired by virtue of, its Australian business exceeds the amount of its liabilities outside Australia attributable to, or incurred by virtue of, its Australian business.

136. Advances and investments

- 136.1 Where the Bank is satisfied that it is necessary or expedient to do so in the public interest, the Bank may determine the policy in relation to advances to be followed by banks and each bank shall follow the policy so determined.

Penalty: Fifty thousand dollars.

- 136.2 Without limiting the generality of the last preceding subsection, the Bank may give directions as to the classes of purposes for which advances may or may not be made by banks and each bank shall comply with any directions so given.

Penalty: Fifty thousand dollars.

- 136.3 Nothing in sections 136.1 or 136.2 shall:

- authorise the Bank to make any determination or give any direction with

- respect to an advance made, or proposed to be made, to any particular person; or
- (b) affect the validity of any transaction entered into in relation to an advance or affect the right of a bank to recover any advance or enforce any security given in respect of an advance but limited to the terms of the policy so determined by the Bank.

137. Foreign exchange control

137.1 Where the Governor is satisfied that it is expedient so to do, for the protection of the currency or of the public credit of the Commonwealth, or in order to conserve, in the national interest, the foreign exchange resources of the Commonwealth, the Governor with the consent of the Treasurer may make regulations, not inconsistent with this Act, making provision for and in relation to the control of foreign exchange and, in particular, but without limiting the generality of the foregoing, for or in relation to:

- (a) the buying, borrowing, selling, lending or exchanging of foreign currency, including the fixing of rates of exchange;
- (b) any dealing or transaction having the effect of a purchase, borrowing, sale, loan or exchange of foreign currency;
- (c) the taking or sending out of Australia of Australian currency or foreign currency;
- (d) requiring any person who has power to sell, or to procure the sale of, any foreign currency to sell, or procure the sale of, that foreign currency as prescribed;
- (e) the taking, sending or transfer of any securities to a place outside Australia, including the transfer of securities from a register in Australia to a register outside Australia;
- (f) the prohibition of the importation or exportation of goods unless a licence under the regulations to import or export the goods is in force;
- (g) the terms and conditions to which such licences may be subject; and
- (h) prescribing penalties not exceeding a fine of Five thousand pounds or imprisonment for a period not exceeding five years for any offence against the regulations made under this section.

137.1 **Australian currency** includes notes, coins, postal notes, money orders, bills of exchange, promissory notes, drafts, letters of credit and travellers' cheques, payable or expressed in Australian money, and also includes rights, and instruments of title, to Australian money;

foreign currency includes notes, coins, postal

notes, money orders, bills of exchange, promissory notes, drafts, letters of credit and travellers' cheques, payable or expressed otherwise than in Australian money, and also includes rights, and instruments of title, to money other than Australian money;

securities includes shares, stock, bonds, debentures, debenture stock, Treasury Bills, and units or sub-units of a unit trust, and also includes deposit receipts in respect of the deposit of securities and documents of title to securities.

Division 1 - Control of interest rates

138. Control of interest rates

138.1 The Bank may, with the approval of the Treasurer, make regulations:

- (a) making provision for and in relation to the control of rates of interest payable to or by banks, or to or by other persons in the course of any banking business carried on by them;
- (b) making provision for and in relation to the control of rates of discount chargeable by banks, or by other persons in the course of any banking business carried on by them; and
- (c) providing that interest shall not be payable in respect of:
 - (i) any amount deposited with a bank, or with any other person in the course of any banking business carried on by him, and repayable on demand or after the expiration of a period specified in the regulations; or
 - (ii) so much of the amount to the credit of a deposit account in a savings bank as exceeds an amount specified in the regulations.

138.2 Any person who contravenes or fails to comply with any regulation under this section shall be guilty of an offence punishable:

- (a) if the offence is prosecuted summarily - by a fine not exceeding One hundred pounds or imprisonment for a term not exceeding six months; or
- (b) if the offence is prosecuted upon indictment - by a fine not exceeding Five thousand pounds or imprisonment for a term not exceeding five years.

Division 2 - Monetary Control

139. Definitions

139.1 In this *Division 2*, unless the contrary intention appears:

agent of the Bank, means a person appointed by the Bank to be an agent of the Bank in

respect of that provision.

goods includes gold.

owner, in relation to any foreign security:

- (a) includes a person who owns the foreign security as a trustee or in any representative capacity; and
 - (b) includes, in a case where:
 - (i) the foreign security is held on any trust; or
 - (ii) dividends or interest on a foreign security are paid into any trust fund;
- any person entitled:
- (iii) to enforce performance of the trust;
 - (iv) to revoke or vary, with or without the consent of any other person, the trust or any of the terms thereof; or
 - (v) to control the disposition (including investment) of the trust moneys;

and **owns** and **owned** have corresponding meanings.

139.2 For the purposes of the definition of foreign securities in this *Division 2*, the following classes of securities or property are foreign securities:

- (a) securities the principal of or interest from which is repayable or payable in any country outside Australia or in any money other than Australian money;
- (b) securities the funds necessary for the repayment or payment of the principal of or interest from which are provided from any country outside Australia;
- (c) securities that are registered outside Australia;
- (d) securities that are situated outside Australia;
- (e) debts or moneys due or accruing due to a person in Australia by a person in a country outside Australia;
- (f) rights to receive payment of moneys in a country outside Australia; and
- (g) rights to receive payment of moneys of a country outside Australia.

140. Control of purchase

140.1 The Bank may, in writing, direct a person:

- (a) not to buy, borrow, sell, lend or exchange foreign currency in Australia (on the person's own behalf or on behalf of another person); or
- (b) not to deal with foreign currency in any other way in Australia.

140.2 The Bank may, in writing, direct a resident, or a person acting on behalf of a resident:

- (a) not to buy, borrow, sell, lend or exchange

foreign currency outside Australia; or

- (b) not to deal with foreign currency in any other way outside Australia.

140.3 The Bank may, in writing, direct a person not to be a party to a transaction if:

- (a) either:
 - (i) the transaction takes place in whole or in part in Australia; or
 - (ii) a resident is a party to the transaction; and
- (b) the transaction:
 - (i) has the effect of, or involves, a purchase, borrowing, sale, loan or exchange of foreign currency; or
 - (ii) otherwise relates to foreign currency.

140.4 The Bank must act under this *Division 2* in accordance with any written directions given by the Treasurer under this section.

140.5 If the Bank gives a direction under this *Division 2*, the Bank must:

- (a) give a copy of the direction to the person to whom the direction relates; or
- (b) publish a copy of the direction in the *Gazette*.

140.6 Where any foreign currency is made available to any person in accordance with this Act for use for any purpose, or subject to any conditions, that person shall not use that foreign currency otherwise than for that purpose, or shall not fail to comply with those conditions, as the case may be.

140.7 For the purposes of this section 182:

- (a) where a body corporate that is not a resident has a place of business in Australia, the body corporate shall be deemed to be a resident in relation to the affairs of the body corporate conducted by the body corporate at or through that place of business, including any business carried on, transactions entered into and acts and things done by the body corporate at or through that place of business; and
- (b) where a body corporate that is a resident has a place of business outside Australia, the body corporate shall be deemed not to be a resident in relation to the affairs of the body corporate conducted by the body corporate at or through that place of business, including any business carried on, transactions entered into and acts and things done by the body corporate at or through that place of business.

140.9 In this Division, person or resident does not include the Bank.

141. Offence against directions

141.1 It is an offence for a person to engage in conduct in contravention of a direction under section 182.

Penalty:

- (a) if the offence is prosecuted summarily - a fine not exceeding ten penalty units or imprisonment for a term not exceeding six months; or
- (b) if the offence is prosecuted upon indictment - a fine not exceeding one hundred penalty units or imprisonment for a period not exceeding five years.

142. Control of transfer of currency out of Australia

142.1 A person shall not, except with the authority of the Bank, take or send out of Australia any Australian currency or foreign currency, other than foreign currency obtained in accordance with section 148.

143. Control of certain payments and transactions

143.1 Subject to this section, a person shall not, except with the authority of the Bank:

- (a) make any payment in Australia to, by the order of, or on behalf of, a person who is not a resident or place any sum in Australia to the credit of any such person;
- (b) draw, issue, or negotiate any bill of exchange or promissory note, enter into any contract or agreement (not being a contract or agreement for the purchase of goods), allot or transfer any security, or acknowledge any debt, so that a right (whether actual or contingent):
 - (i) to receive a payment, or any valuable consideration; or
 - (ii) to the performance of any service; whether in Australia or elsewhere, is created or transferred in favour of a person who is not a resident; or
- (c) make an entry in a register in Australia that recognises that a person who is not a resident is the holder of securities.

143.2 Nothing in paragraph (a) of section 143.1 shall prevent any payment by the Bank, or by an agent of the Bank, to any resident.

143.3 Subject to this section 143, a person shall not, except with the authority of the Bank:

- (a) make any payment to any resident as consideration for, or in association with:
 - (i) the receipt by any person of a payment, or the acquisition by any person of any property, outside Australia; or
 - (ii) the creation or transfer, in favour of any person, of a right (whether actual or contingent) to receive a payment or acquire property outside Australia;

or

- (b) draw, issue, or negotiate any bill of exchange or promissory note, enter into any contract or agreement (not being a contract or agreement for the purchase of goods), allot or transfer any security, or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment in Australia is created or transferred in favour of a resident as consideration for, or in association with, any matter referred to in subparagraph (i) or (ii) of the last preceding paragraph.

143.4 A person shall not receive any payment prohibited by section 143.3.

143.5 For the purposes of section 143:

- (a) where a body corporate that is not a resident has a place of business in Australia, the body corporate shall be deemed to be a resident in relation to the affairs of the body corporate conducted by the body corporate at or through that place of business, including any business carried on, transactions entered into and acts and things done by the body corporate at or through that place of business;
- (b) where a body corporate that is a resident has a place of business outside Australia, the body corporate shall be deemed not to be a resident in relation to the affairs of the body corporate conducted by the body corporate at or through that place of business, including any business carried on, transactions entered into and acts and things done by the body corporate at or through that place of business;
- (c) the making of any book-entry or other statement recording a debit against the head office, or a branch, in Australia of a body corporate in favour of the head office, or a branch, of the body corporate out of Australia shall be deemed to be the acknowledgment of a debt whereby a right to receive a payment in Australia is created in favour of a person resident out of Australia;
- (d) security also includes a coupon or warrant representing dividends or interest, and a life or endowment insurance policy, but does not include bill of exchange or promissory note; and
- (e) transfer includes, in relation to any security, transfer by way of loan or security.

143.6 Nothing in this section 143 shall prevent the doing of any act permitted under sections 140 or 142 of this Act.

144. Control of certain transfers etc. of property

- 144.1 The sale, loan, transfer, mortgaging or charging of any security or land that is in Australia by, by the order of, or on behalf of, a person who is not a resident to another person who is not a resident, or to a person acting on behalf of such a person, shall, unless it is made with the authority of the Bank, be prohibited.
- 144.2 A person shall not, except with the authority of the Bank, whether as agent or attorney of any person who is not a resident or by the order of or on behalf of any such person, or otherwise, enter into any transaction prohibited by the last preceding section.
- 144.3 For the purposes of this section 144:
- (a) security also includes a coupon or warrant representing dividends or interest, and a life or endowment insurance policy, but does not include bill of exchange or promissory note; and
 - (b) transfer includes transfer by way of loan or security.

145. Special provisions for making certain payments

- 145.1 Subject to any directions of the Treasurer, the Bank may, by notice published in the Gazette, specify any country to be a country to which this section applies.
- 145.2 Any person who is liable to make any payment to a person resident in a country to which this section 145 applies shall, instead of making payment to that last-mentioned person, make the payment to the Bank, or to an agent of the Bank for payment to the Bank.
- 145.3 Where a payment is so made, the receipt of the Bank, or of the agent of the Bank, for the amount paid shall be a good discharge, to the extent of the amount paid, to the person making the payment.
- 145.4 Where the liability to make the payment is a liability to make the payment in some money other than Australian money, the amount of the liability in Australian money, and the extent of the discharge, shall be ascertained by converting the amount into Australian money at a rate of exchange fixed by the Bank.
- 145.5 The amounts paid to the Bank and to the agents of the Bank under this section 145 shall be applied in such manner as the Bank directs.

146. Blocked accounts

146.1 In this section:

blocked account means:

- (a) an account opened, whether before or after the commencement of this Act, as a blocked account with the Bank or an agent of the Bank; and
- (b) an existing account with the Bank or

an agent of the Bank declared, whether before or after the commencement of this Act, by the Bank to be a blocked account;

but does not include any such account which the Bank declares shall cease to be a blocked account;

the banker, in relation to any person, means the Bank, or an agent of the Bank, which opens a blocked account in favour of that person, or which maintains for that person an account declared by the Bank to be a blocked account.

146.2 A person shall not, except with the authority of the Bank:

- (a) make any payment out of, or be a party to any transaction having the effect of making a payment out of, a blocked account; or
- (b) assign or charge any moneys standing to the credit of a blocked account.

146.3 Notwithstanding the provisions of the last preceding section 146.2, the banker may transfer a blocked account to the name of the official receiver, trustee in bankruptcy, or personal representative, in Australia, of the person in whose favour the blocked account was opened.

146.4 Except as provided in the last preceding section 146.3, or except with the authority of the Bank, no change shall be made in the name in which a blocked account stands, and, where any such change is made (whether or not the authority of the Bank is necessary therefor) then, notwithstanding the change, the blocked account shall remain a blocked account and the provisions of this section 155 shall apply accordingly.

146.5 Where the payment to any person of any sum is permitted under this Act subject to a condition that the payment shall be made to a blocked account:

- (a) the payment may be made either:
 - (i) to the banker with a direction that it shall be credited to a blocked account of that person, which direction may, in the case of a payment by means of a cheque or warrant, be made by marking the cheque or warrant with the words Blocked account of (naming the person in question) or words to the like effect; or
 - (ii) by a crossed cheque or warrant drawn in favour of that person marked with the words Payable only to blocked account of payee or words to the like effect;
- (b) the amount received shall be credited by the banker to a blocked account of that

person; and

- (c) the crediting of that amount to that account shall, to the extent of the amount credited, be a good discharge to the person making the payment.

146.6 Where:

- (a) a payment is due from any person to any other person, but, under section 189, the payment cannot lawfully be made except with the authority of the Bank;
 - (b) that authority is granted subject to the condition that the payment shall be made to the Bank, or to an agent of the Bank, for credit to a blocked account; and
 - (c) the person to whom the payment is due nominates a blocked account to the person by whom the payment is due;
- the person by whom the payment is due shall be under an obligation to the person to whom the payment is due to make the payment accordingly.

147. Control of proceeds of exports

147.1 This *Division 2* shall not to apply within an external Territory.

148. Definitions

148.1 In this Division, unless the contrary intention appears:

export value means:

- (a) in relation to exported goods other than goods referred to in paragraph (b) - the fair market value of the goods, less any amount payable (not being an amount payable to the owner) in respect of freight, insurance or other costs of exporting the goods or of landing them overseas, being the fair market value of the same or similar goods in the principal markets in the country to which they are exported as at the date of the contract of sale having regard to all the circumstances of the sale or, if there is no contract of sale, as at the time of export; and
- (b) in relation to goods exported for the purposes of sale by an Australian resident - the fair market value of the goods, less the costs of landing and selling the goods overseas that are to be met from the proceeds of sale, being the fair market value of the same or similar goods in the principal markets in the country to which they are exported as at the time of sale.

owner, in relation to goods, means the person who is entitled to the proceeds of sale of those goods, and includes a person who has power to sell, or procure the sale of, foreign currency received from the sale of those goods.

shipping documents means documents relating to the delivery, carriage or receipt of goods, including a bill of lading, shipping receipt, consignment note or way-bill.

148.2 Subject to section 100.1, expressions used in this *Division 2*, being expressions that are used in the Customs Act 1901, shall, unless the contrary intention appears, have the same respective meanings as in that Act.

148.3 For the purposes of this *Division 2*:

- (a) where a body corporate that is not a resident has a place of business in Australia, the body corporate shall be deemed to be a resident in relation to the affairs of the body corporate conducted by it, including any business carried on, transactions entered into and acts and things done by the body corporate at or through that place of business; and
- (b) where a body corporate that is a resident has a place of business outside Australia, the body corporate shall be deemed not to be a resident in relation to the affairs of the body corporate conducted by it at or through that place of business, including any business carried on, transactions entered into and acts and things done by the body corporate at or through that place of business.

149. Exportation of goods prohibited unless approved payment received

149.1 A person shall not export goods unless:

- (a) payment of an amount equal to the export value of the goods has been or is to be received in Australia:
 - (i) in such currency;
 - (ii) in such manner; and
 - (iii) within such period, before or after the date of exportation of the goods; as the Bank for the time being has approved; or
- (b) the authority of the Bank for the export has been obtained.

149.2 Approvals under paragraph (1) (a) shall be notified in the Gazette.

149.3 The owner exporting goods in accordance with the provisions of section 158.1(a) shall make such arrangements as are necessary to ensure that those provisions are complied with.

150. Foreign currency to be sold to bank in Australia

150.1 Where foreign currency representing the proceeds of sale of goods that have been or are to be exported is received, the owner of the goods shall, unless otherwise authorised by the Bank, as soon as is reasonably practicable, sell

that foreign currency, or procure the sale of that foreign currency, to a bank in Australia for Australian currency at a rate of exchange fixed or authorised by the Bank and in force for the time being.

151. Fulfilment of arrangements

151.1 A person who, for any of the purposes of this Part, has made any arrangements in relation to the receipt of the proceeds of sale of goods that have been or are to be exported:

- (a) shall take reasonable steps to ensure that the arrangements are fulfilled; and
- (b) shall not, without the authority of the Bank, cancel or alter the arrangements.

152. Exporters to give information

152.1 A person shall not export goods unless he has given to the Bank notice in writing stating:

- (a) the name and address of the exporter of the goods;
- (b) where the owner of the goods at the time of export will be a person other than the exporter, the name and address of that person;
- (c) the name and address of the person (if any) to whom the goods are to be consigned;
- (d) the bank in Australia by which, and the branch of that bank at which, any currency representing the proceeds of sale of the goods has been or is to be received;
- (e) the currency and manner in which the proceeds of sale of the goods have been or are to be received and, where payment has not been received, the period within which payment is to be received;
- (f) the amount shown in a Customs entry in relation to the goods as the invoice value of the goods;
- (g) whether the invoice value stated for the purpose of paragraph (f) is the f.o.b. value or the c.i.f. value and, if the value is neither an f.o.b. value nor a c.i.f. value, the basis on which the value is calculated;
- (h) the mode of transport to be used in the exportation of the goods and, if the goods are to be transported by sea, the name of the ship to be used;
- (i) the port, airport, or post office at which the goods are to be loaded or posted, as the case may be;
- (j) the date on which the goods are expected to leave Australia;
- (k) the port or airport at which the goods are to be discharged or, in the case of goods to be exported through the post, the country of destination of the goods;

- (l) the number and kind of packages of the goods; and
- (m) the quantity and description of the goods.

152.2 Notice for the purpose of section 152.1 shall be given:

- (a) where the goods consist of a ship or aircraft that is to be exported otherwise than in another ship or aircraft - before the ship or aircraft leaves the place of exportation;
- (b) in the case of goods that are to be exported through the post - before the goods are posted; and
- (c) in any other case - before the goods are taken on board the ship or aircraft in which they are to be exported.

152.3 It is a sufficient compliance with a requirement of this section 161 that a notice be given to the Bank if the notice is given to the Collector.

153. Bank may require further particulars

153.1 Where a person has given notice for the purpose of section 152.1 or 152.3 in relation to goods, a person who is a prescribed person in relation to the goods shall, on request in writing by the Bank:

- (a) give to the Bank such further particulars in writing as are within his knowledge and are specified in the request in relation to:
 - (i) the payment of the proceeds of sale of the goods or any arrangements made in relation to the receipt of the proceeds of sale of the goods;
 - (ii) the manner in which, under any such arrangements, the amount that is or is to be paid for the goods is or is to be ascertained; and
 - (iii) the bank and branch of the bank in Australia at which any currency representing the proceeds of sale of the goods has been or is to be received or sold; and
- (b) produce to the Bank such books and documents in his custody or control relating to a matter referred to in paragraph (a) as are specified in the request.

153.2 Books or documents produced in accordance with a request under section 153.1 may be retained by the Bank for so long as is reasonably necessary for the making of copies of, or extracts from, the books or documents.

153.3 The Bank may make, or cause to be made, and may retain, copies of, or extracts from, any books or documents produced in accordance with a request under section 153.1.

153.4 A person is not excused from giving particulars

or producing a book or document on request by the Bank under this regulation on the ground that the giving of the particulars or the production of the book or document might tend to incriminate him or make him liable to a penalty, but particulars given, or a book or document produced, by him are not admissible in evidence against him except in proceedings for an offence arising out of the falsity of particulars given by him.

153.5 In this *Division 2*, prescribed person, in relation to goods, means:

- (a) the person shown as the exporter or owner of the goods in a notice given under the section 161;
- (b) a person who has in his custody or under his control the shipping documents relating to the goods; or
- (c) any person who has received or is to receive an amount equal to or forming part of the proceeds of sale of the goods.

154. Provision where goods undervalued

154.1 Where:

- (a) notice has been given to the Bank under section 152 in respect of goods that have been or are to be exported; and
- (b) the amount shown in the notice as the invoice value of the goods is, in the opinion of the Bank, less than the export value of the goods or payment of an amount equal to the export value of the goods has not been received in Australia in accordance with section 152;

the Bank may, by notice in writing given to the exporter or owner of the goods, require the exporter or owner of the goods to deliver the shipping documents relating to the goods to the Bank or an agent of the Bank.

154.2 A person to whom a notice is given in pursuance of section 154.1 shall not, without reasonable excuse, fail to comply with the requirement of the notice.

154.3 Where shipping documents are delivered to the Bank or an agent of the Bank in accordance with a requirement under section 154.1, the Bank or agent of the Bank may retain the documents until the Bank is satisfied that an amount equal to the export value of the goods has been, or will be, received by the owner.

155. Provisions of other laws not affected

155.1 This *Division 2* applies with respect to the exportation of goods notwithstanding that a licence or other authority for the exportation of the goods is in force under any other law.

155.2 The grant of an authority under this *Division 2* or the exemption of goods from the application

of this *Division 2* does not absolve a person from the obligation to comply with any other law relating to the exportation of the goods.

156. Indemnity

156.1 No claim, action or proceeding shall be made or brought by a person against the Bank or an agent of the Bank, or against an officer of the Bank or of an agent of the Bank, in respect of any loss or damage arising out of any dealing with any document delivered to the Bank or an agent of the Bank under this *Division 2*.

156.2 Section 156.1 does not apply in relation to any dealing that was done negligently or otherwise than in good faith.

157. Security

157.1 Before or after the export of any goods from Australia, the exporter or owner shall, if required so to do by the Bank, give security for compliance with the requirements of this Part.

157.2 Security required to be given under this regulation shall be in such form and for such amount as the Bank requires, shall be executed by the person giving the security and, if required by the Bank, shall also be executed by one or more sureties approved by the Bank, and shall be conditioned for the compliance by the person giving the security and all other persons bound thereby with the requirements of this Part.

157.3 Any security given under this regulation shall, unless the Bank otherwise determines, be for a sum equal to twice the amount that, in the opinion of the Bank, is the amount of the export value of the goods.

158. Control of disposal of securities

158.1 A person shall not, without the authority of the Bank, take, send or transfer any securities to any place outside Australia.

158.2 For the purposes of this section 158, a person shall be deemed to transfer securities to a place outside Australia if he transfers securities from a register in Australia to a register outside Australia.

159. Control of foreign securities

159.1 Subject to section 159.2, except with the authority of the Bank:

- (a) a person shall not, either on his own behalf or on behalf of another person buy, borrow, sell, lend or exchange, or otherwise deal with, foreign securities that are in Australia; and
- (b) a resident, or a person acting on behalf of a resident, shall not buy, borrow, sell, lend or exchange, or otherwise deal with, foreign securities that are outside Australia.

159.2 Section 159.1 does not apply to the acquisition of foreign securities otherwise than for valuable consideration.

159.3 For the purposes of this section 159:

- (a) where a body corporate that is not a resident has a place of business in Australia, the body corporate shall be deemed to be a resident in relation to the affairs of the body corporate conducted by the body corporate at or through that place of business, including any business carried on, transactions entered into and acts and things done by the body corporate at or through that place of business; and
- (b) where a body corporate that is a resident has a place of business outside Australia, the body corporate shall be deemed not to be a resident in relation to the affairs of the body corporate conducted by the body corporate at or through that place of business, including any business carried on, transactions entered into and acts and things done by the body corporate at or through that place of business.

159.4 In this regulation, person does not include the Bank or an agent of the Bank.

160. Returns of foreign securities

160.1 Subject to such exceptions (if any) as are specified in the notice, the Bank may, by notice published in the Gazette, require every person:

- (a) who on or after the publication of the notice in the Gazette owns or has any interest in; or
- (b) who has, during any period specified in the notice, owned or had any interest in; foreign securities of a class so specified, to furnish a return to the Bank, or to such person as is so specified, giving such particulars with respect to those securities as are so specified.

160.2 A person required by any notice under the last preceding subsection to furnish a return shall furnish the return within such period as is specified in the notice, or, in any particular case, within such longer period as the Bank or the person to whom the return is to be furnished allows.

160.3 A person shall not make any false or misleading statement in any return furnished under subsection (1) of this section 160.

161. Declaration by travellers

161.1 Any person who is about to leave Australia (in this section referred to as the traveller) shall, if requested so to do by an officer:

- (a) declare whether or not he has with him any Australian currency, foreign currency

or securities; and

- (b) produce any Australian currency, foreign currency or securities which he has with him.

161.2 The officer, and any person acting under his directions, may search the traveller and examine and search any article which the traveller has with him for the purpose of ascertaining if he has with him any Australian currency, foreign currency or securities, and may seize any Australian currency, foreign currency or securities found upon the examination or search unless the officer is satisfied that the traveller has not the Australian currency, foreign currency or securities with him for the purpose of being taken or sent out of Australia in contravention of this *Division 2*.

161.3 A female shall not be searched in pursuance of the last preceding subsection except by a female.

161.4 Any officer, and any person acting under his directions, may go on board any ship or aircraft for the purpose of exercising the powers conferred on him by this regulation, and may also examine or search the ship or aircraft and any goods found thereon, for the purpose of ascertaining whether there is on board the ship or aircraft any Australian currency, foreign currency or securities for the purpose of being taken or sent out of Australia in contravention of this *Division 2*.

161.5 Any officer may seize any Australian currency, foreign currency and securities found upon any such examination or search which, in the opinion of the officer, are in the possession of any traveller, or on board the ship or aircraft, for the purpose of being taken or sent in contravention of this *Division 2*.

161.6 In this section 171, **officer** means a person who is an officer of Customs for the purposes of the Customs Act 1901, an officer of the Department of Immigration or a member of the Police Force of the Commonwealth or of a State or Territory of the Commonwealth, and includes a person authorised by the Bank to act as an officer for the purposes of this regulation.

162. Exemptions

162.1 Subject to any directions of the Treasurer, the Bank may, either wholly or to the extent specified, exempt from the application of the whole or any of the provisions of this *Division 2*:

- (a) any person, all persons, or every person included in any class of persons;
- (b) any act or transaction, all acts and transactions, or every act or transaction included in any class of acts or

- transactions;
- (c) any security, all securities, or every security included in any class of securities; or
- (d) any goods or goods included in any class of goods.

- 162.2 An exemption under section 172.1 may be granted either unconditionally or subject to such conditions as the Bank thinks fit.
- 162.3 Subject to any directions of the Treasurer, the Bank may revoke or vary any such exemption.

163. General authorities

- 163.1 The Bank may issue a general authority authorizing a person, or persons included in a class of persons, specified in the authority or all persons to do an act or thing, or acts or things, specified in the authority, the doing of which, except with the authority of the Bank, would otherwise be prohibited by this *Division 2*.
- 163.2 The provisions of this *Division 2* prohibiting the doing by a person of an act or thing, being an act or thing that the person is authorised to do by a general authority issued under section 163.1, do not apply in relation to the doing of that act or thing by that person.

164. Authority of the Bank

- 164.1 Subject to any directions of the Treasurer, the grant of any authority by the Bank under any provision of this *Division 2* shall be in the absolute discretion of the Bank, and the authority may be granted either unconditionally or subject to such conditions as the Bank thinks fit for a purpose in relation to which the Regulations make provision.
- 164.2 Where the authority of the Bank is granted subject to conditions a person shall comply with all such conditions as are applicable to him.
- 164.3 Subject to any directions of the Treasurer, the Bank may revoke or vary any authority granted by the Bank under any provision of this *Division 2*.

165. Directions by Treasurer

- 165.1 In giving directions under section 174, the Treasurer is to take into account Australia's relations with other countries and its obligations under international law.

166. False statements

- 166.1 A person shall not make:
- (a) to any Commonwealth officer;
 - (b) to any officer of the Bank or of an agent of the Bank;
 - (c) to any person who is authorised, by a general authority issued pursuant to this Act, to engage in foreign currency

- transactions or to any director, officer, employee or agent of such a person; or
- (d) to any person to whom application is made for the issue of a money order payable outside Australia;

any statement, whether oral or in writing, relating to any act, transaction, matter or thing to which any provision of this *Division 2* applies, which he knows to be untrue, or which is misleading, in any particular, or which is made by him without his having first made proper inquiries to ascertain the truth thereof.

167. Contracts to evade Act

- 167.1 A person shall not enter into or make any contract or arrangement, whether oral or in writing, for the purpose of, or which has the effect of, in any way, and whether directly or indirectly, defeating, evading or avoiding, or preventing the operation of, this Act in any respect.

168. Offences

- 168.1 A person shall not contravene or attempt to contravene, or fail to comply with, any of the provisions of this *Division 2*.

Penalty:

- (a) if the offence is prosecuted summarily - a fine not exceeding One thousand dollars or imprisonment for a term not exceeding six months; or
- (b) if the offence is prosecuted upon indictment - a fine not exceeding One hundred thousand dollars or imprisonment for a period not exceeding five years.

- 168.2 Subject to sections 168.3 and 168.4 where a person has been convicted by a court of an offence against this *Division 2*, the court may, if it thinks fit, order the forfeiture of all or any of the articles in respect of which the offence was committed.

- 168.3 The court shall not make an order under section 168.2 for the forfeiture of any articles if a person satisfies the court:

- (a) that he is the owner of those articles; and
- (b) that he was not, in any way, directly or indirectly knowingly concerned in, or party to, the commission of the offence.

- 168.4 The court shall not make an order under section 168.2 unless:

- (a) in a case where it appears to the court that a person other than the person convicted of the offence is the owner of all or any of the articles in respect of which the offence was committed - the court has caused notice of the prescribed particulars to be

- given to the first-mentioned person; or
- (b) in a case where it appears to the court that the owner of all or any of the articles in respect of which the offence was committed is not known - the court has caused notice of the prescribed particulars to be given by public advertisement in such manner, at such times, and in such places as the court considers appropriate.

168.5 For the purposes of section 168.4 the prescribed particulars are:

- (a) particulars of the offence;
- (b) particulars of the articles in respect of which the offence was committed; and
- (c) particulars of the time, date and place at or upon which the court proposes to consider any application in relation to the forfeiture of the articles in respect of which the offence was committed.

168.6 In this section 168 the articles in respect of which the offence was committed means the goods, Australian currency, foreign currency or securities in respect of which the offence was committed.

169. Property obtained in contravention of *Division 2*

169.1 Where a person has been convicted by a court of an offence against this *Division 2*, the court may, if it thinks fit, order the disposal in accordance with the directions of the Bank of any Australian currency, foreign currency, goods or other property in respect of which

the offence was committed that the person is entitled to sell or of which he is entitled to procure the sale.

169.2 A person who is ordered by a court under section 169.1 to dispose of property shall comply with that order.

170. Agents of the Bank

170.1 The Bank may appoint any person to be an agent of the Bank in respect of all or any of the provisions of *Division 2*.

170.2 Any person appointed to be an agent of the Bank shall carry out his duties as agent in accordance with, and shall comply with, such instructions, directions and requirements as are issued or made by the Bank.

170.3 The Bank may revoke the appointment of any agent of the Bank under this regulation.

170.4 Evidence of the appointment, or of the revocation of the appointment, of an agent of the Bank under this regulation may be given by the production of the Gazette purporting to contain a notification of the appointment or revocation, as the case may be.

171. Validation

171.1 No act or thing done, or contract or other transaction entered into, is invalid or unenforceable by reason only that the provisions of the Regulations have not been complied with.

COMMONWEALTH NATIONAL CREDIT BANK (BANK REGULATION) BILL 2019

An Act regulate Banking, to make provision for the Protection of the Currency and of the Public Credit of the Commonwealth and for other purposes.

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PART I —PRELIMINARY

The Parliament of Australia enacts:

1. Short title

This Act may be cited as the Commonwealth National Credit Bank (Bank Regulation) Act 2018.

2. Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after this Act receives the Royal Assent.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3. Outline of the Purposes of the Act

The purposes of this Act are:

- (a) to regulate Australian banks and Australia's

national credit;

- (b) to ensure an orderly flow of credit and currency to the Australian economy;
- (c) to aid Australia's return to a public credit-based economy implemented through a system of national banking;
- (d) to ensure the financing of nationwide infrastructure projects, vital aspects of the economy, to act as science-drivers and to increase Australia's physical-economic productivity and therefore the standard of living of all Australians.

4. Definitions

4.1 In this Act, unless the contrary intention appears:

the Bank means the Commonwealth National Credit Bank

advance includes loan

APRA means the Australian Prudential Regulation Authority

Australia includes the Territories

Australian currency means notes, coins and specie, payable and denominated in Australian dollars and cents:

Australian financial instrument means any instrument denominated in Australian currency evidencing debt or property, or a surety for the fulfilment of a promise or obligation, and also means rights, options, swaps and derivatives so denominated.

bank means a corporation carrying on banking business

banking business means:

- (a) a business that consists of banking within the meaning of paragraph 51(xiii) of the Constitution other than State banking but including State banking extending beyond the limits of the State concerned; and
- (b) a business that is carried on by a corporation to which paragraph 51(xx) of the Constitution applies other than State banking but including State banking extending beyond the limits of the State concerned, and that consists, to any extent, of both taking money on deposit (otherwise than as part-payment for identified goods or services) and making advances of money

Commonwealth means the Federal Commonwealth of Australia

Constitution means the Constitution of Australia Act as amended

foreign currency means notes, coins and specie denominated other than in Australian dollars and cents

national banking means the business carried on by the Commonwealth National Credit Bank of Australia in accordance with this Act

officer or officer of the Bank means an officer of the Commonwealth National Credit Bank

Parliament means the Parliament of the Commonwealth

Senate means the Senate of the Parliament of the Commonwealth

5. Application to Crown

This Act binds the Crown in right of each of the States, of the Australian Capital Territory, and of the Northern Territory.

6. Reserve Bank

- 6.1 Upon a date to be fixed by Proclamation, the Reserve Bank shall be dissolved.
- 6.2 Any activities previously the responsibility of the Reserve Bank shall after such date be undertaken by the Bank in accordance with the provisions of this Act.
- 6.3 Upon the date fixed by Proclamation for the dissolution of the Reserve Bank, all the assets and liabilities of the Reserve Bank shall by force of this Act be transferred to the Bank.
- 6.4 The transfer of the assets and liabilities shall be at the values shown in the books of the Reserve Bank.
- 6.5 Upon a further date fixed by Proclamation the Reserve Bank Act 1959 as amended shall by force of this Act be repealed.

7. Australian Prudential Regulatory Authority

- 7.1 From the date of commencement of this Act, APRA shall not exercise any power, control, direction or regulation over an ADI which shall be a bank within the meaning of the Banking Act 1959 as amended.
- 7.2 Upon a date to be fixed by Proclamation, the Australian Prudential Regulatory Authority shall be dissolved.
- 7.3 Upon a date to be fixed by Proclamation, all provisions in any Commonwealth legislation referring to APRA shall by force of this Act be repealed.
- 7.4 Any activities previously the responsibility of APRA shall henceforth be undertaken by the Bank in accordance with the provisions of this Act.
- 7.5 Upon a date to be fixed by Proclamation all the assets and liabilities of APRA shall by force of this Act be transferred to the Bank.
- 7.6 The transfer of the assets and liabilities shall be at the values shown in the books of the Treasury.

PART II - PROVISIONS RELATING TO THE CARRYING ON OF BANKING BUSINESS.

Division I.-The Authority to carry on Banking Business.

8. Banks to be licenced & regulated

- 8.1 Subject to this Act, a person other than a body corporate shall not, at any time after the commencement of this Act, carry on any banking

business in Australia.

Penalty: Two hundred and fifty thousand dollars for each day during which the contravention continues.

- 8.2 A body corporate shall not, at any time after the commencement of this Act carry on any banking business in Australia unless the body corporate is in possession of an authority in writing granted by the Bank pursuant to this Act to carry on banking business.

9. Authority to carry on banking business

- 9.1 The Bank shall, within seven days after the commencement of this Act, grant to each body corporate specified in the First Schedule an authority to carry on banking business in Australia.
- 9.2 A body corporate (not being a body corporate specified in the First Schedule) which desires authority under this Act to carry on banking business in Australia may apply in writing to the Bank for authority accordingly.
- 9.3 Where any such application is made, the Bank may grant to that body corporate an authority to carry on banking business in Australia.
- 9.4 Where an authority under this section is granted subject to conditions, the Bank may, from time to time, vary or revoke any of those conditions or impose additional conditions.
- 9.5 Where an authority under this section is subject to conditions, the body corporate to which the authority is granted shall comply with those conditions.

Penalty: Two Hundred thousand dollars for each day during which the contravention continues.

- 9.6 Every authority under this section, and every instrument made under sub-section (3) of this section, shall be published in the Gazette.
- 9.7 Where the Bank is satisfied that any body corporate in possession of an authority under this section has ceased to carry on banking business in Australia, the Bank may revoke the authority and notice of the revocation shall be published in the Gazette.

10. Bank to be supplied with certain documents

- 10.1 An application under this Act by a body corporate, not being a body corporate specified in the First Schedule, shall be accompanied by a copy of the Act, charter, deed of settlement, memorandum of association and articles of association of the body corporate, or other document by which the body corporate is constituted.
- 10.2 Each body corporate specified in the First Schedule shall, within six months after the commencement of this Act, furnish to the Bank a copy of the Act, charter, deed of settlement, memorandum of association and articles of association of the body corporate, or other document by which the body corporate is constituted.

10.3 Every copy of an Act, charter, deed of settlement, memorandum of association, articles of association or other document furnished to the Bank under either of the last two preceding sub-sections shall be verified by a statutory declaration made by a senior officer of the body corporate concerned.

10.4 A bank shall, within three months after determining to make any alteration in any document referred to in sub-section (1) or (2) of this section, furnish to the Bank particulars in writing (verified by a statutory declaration made by a senior officer of the bank concerned) of the alteration and such alteration shall not take effect until such notice has been given and such alteration shall have been approved by the Bank.

Penalty, for any offence against this section: Fifty Thousand dollars.

Division 2 - Protection of Depositors

11. Bank to protect depositors

11.1 It shall be the duty of the Bank to exercise its powers and functions under this Division for the protection of the depositors of the several banks.

12. Supply of information

12.1 The Bank may, by notice in writing, require any bank to supply it, within the time specified in the notice, with such information relating to the financial stability of that bank as is specified in the notice.

12.2 The information supplied in compliance with a requirement under the last preceding sub-section shall be verified by a statutory declaration made by a senior officer of the bank concerned.

12.3 If a bank fails to comply with any requirement under subsection (1) of this section, the Bank may appoint an officer of the Bank to investigate the affairs of that bank.

13. Banks unable to meet obligations

13.1 A bank which considers that it is likely to become unable to meet its obligations, or is about to suspend payment, shall forthwith inform the Bank.

13.2 Where a bank:

- (a) so informs the Bank;
- (b) becomes unable to meet its obligations or suspends payment; or
- (c) in the opinion of the Bank, is likely to become unable to meet its obligations or is about to suspend payment,

the Bank may:

- (d) appoint an officer of the Bank to investigate the affairs of the bank concerned; and
- (e) assume control of and carry on the business of that bank.

13.3 Where the Bank has, in pursuance of the last

preceding section, or in pursuance of the last preceding sub-section, appointed an officer to investigate the affairs of a bank, that bank shall afford the officer access to its books, accounts and documents and shall give to the officer such information and facilities as he requires to conduct the investigation.

Penalty: Two Hundred and Fifty thousand dollars for each day during which the contravention continues.

13.4 Where the Bank has, in pursuance of subsection (2) of this section, assumed control of the business of a bank, that bank shall submit its business to the control of the Bank and shall provide the Bank with such facilities as the Bank requires to carry on the business of that bank.

Penalty: Two Hundred and Fifty thousand dollars for each day during which the contravention continues.

13.5 Where the Bank has, in pursuance of subsection (2) of this section, assumed control of the business of a bank, the Bank shall, subject to the next succeeding subsection, remain in control of and continue to carry on, the business of that bank until such time as:

- (a) the deposits with the bank have been repaid or the Bank is satisfied that suitable provision has been made for their repayment; and
- (b) in the opinion of the Bank, it is no longer necessary for the Bank to remain in control of the business of the bank.

13.6 Upon the application of a bank of whose business the Bank has assumed control in pursuance of sub-section (2) of this section, a Full Court of the High Court constituted by not less than three Justices may, if it is satisfied that it is no longer necessary, for the protection of the depositors of that bank, that the Bank should remain in control of the business of that bank, order that the Bank shall cease to control the business of that bank, as from a date specified in the order.

13.7 Where the Bank, in pursuance of this section, assumes control of the business of a bank, or ceases to control the business of a bank, the Bank shall notify that fact in the Gazette.

14. Indemnity

14.1 The Bank, the Governor and Deputy Governor of the Bank, and any officer of the Bank, shall not be subject to any action, claim, or demand by, or any liability to, any person in respect of anything done or omitted to be done in good faith and without negligence in the exercise, or in connexion with the exercise, of the powers conferred on the Bank under this Division.

15. Assets to be held by banks

15.1 Except with the authority of the Bank, a bank shall hold assets (other than good will) in

Australia of a value not less than the total amount of its deposit liabilities in Australia.

Penalty: Two Hundred and Fifty Thousand dollars for each day during which the contravention continues.

15.2 In the event of a bank becoming unable to meet its obligations or suspending payment, the assets of the bank in Australia shall be available to meet that bank's deposit liabilities in Australia in priority to all other liabilities of the bank.

Division 3 - Special Accounts

16. Commencement

16.1 This Division shall commence on a date to be specified by the Treasurer by notice in the Gazette.

17. Establishment of Special Accounts

17.1 On the day on which this Division commences, each bank shall establish with the Bank a Special Account for the purposes of this Division.

17.2 On the day on which any bank (not being a bank carrying on business at the date of commencement of this Division) commences to carry on banking business in Australia, that bank shall establish with the Bank a Special Account for the purposes of this Division.

18. Transfer of certain moneys to Special Accounts

18.1 On the day on which this Division commences, there shall, by force of this section, be transferred to the Special Account of each bank established by the Bank under this Division the amount or amounts then standing to the credit of that bank's accounts with APRA and the Reserve Bank of Australia and required to be so lodged pursuant to Australian Prudential Regulation Authority Act 1998 as amended or the Reserve Bank Act 1959 as amended or the Banking Act 1959 as amended.

19. Lodgements in Special Accounts

19.1 Each bank shall, not later than the twenty-eighth day in each month, lodge in the Special Account established by it under this Division such amount (if any) as the Bank by notice in writing, directs.

19.2 The amount which any bank is so directed to lodge shall not be such that the amount to the credit of that bank's Special Account after making the lodgment, exceeds the sum of:

- (a) the amount (if any) transferred to that bank's Special Account under the last preceding section; and
- (b) the increase (if any) in that bank's assets since the commencement of this Division.

19.3 For the purposes of the last preceding subsection, the increase in any bank's assets since the commencement of this Division means the amount by which the average of its total assets

in Australia as at the close of business on each Monday (or such other day as is prescribed) in the month preceding the month in which the lodgment is to be made exceeds the average of its total assets (if any) in Australia as at the close of business on each Monday in the last month before the commencement of this Division.

19.4 If any bank fails to comply with the provisions of sub-section (1) of this section, it shall be guilty of an offence, and shall, upon conviction, be liable, for each day during which the failure continues, to a fixed penalty at the rate of Eight dollars per centum per annum of the amount which it has failed to lodge as required by sub-section (1) of this section.

19.5 In this section, 'month' means the period commencing on the first day of any month and ending on the last day of that month.

20. Withdrawals from Special Accounts

20.1 Except with the consent of the Bank, a bank shall not be entitled to withdraw any sum from the Special Account established by it under this Division.

20.2 The grant of consent by the Bank under the last preceding subsection shall be in the discretion of the Bank, which may withhold consent or grant consent either unconditionally or subject to such conditions as the Bank determines.

20.3 Where any consent under sub-section (1) of this section is granted subject to conditions, the bank to which the consent is granted shall comply with those conditions.

Penalty: One Hundred thousand dollars for each day during which the contravention continues.

21. Interest to be paid on Special Accounts

21.1 The Bank shall pay interest, at half-yearly intervals, to each bank on the daily balance of that bank's Special Account at a rate, not exceeding three quarters of one per centum per annum, determined from time to time by the Bank with the approval of the Treasurer.

Division 4 - Advances and Investments

22. Advances

22.1 Where the Bank is satisfied that it is necessary or expedient to do so in the public interest, the Bank may determine the policy in relation to advances to be followed by banks and each bank shall follow the policy so determined.

Penalty: Five Hundred thousand dollars.

22.2 Without limiting the generality of the last preceding subsection, the Bank may give directions as to the classes of purposes for which advances may or may not be made by banks and each bank shall comply with any directions so given.

Penalty: Five Hundred thousand dollars.

22.3 Nothing in this section shall:

- (a) authorise the Bank to make any determination or give any direction with respect to an advance made, or proposed to be made, to any particular person; or
- (b) affect the validity of any transaction entered into in relation to an advance or affect the right of a bank to recover any advance or enforce any security given in respect of an advance.

23. Limitations on purchase of securities

23.1 A bank holding an authority issued pursuant to Section 9 of this Act shall not, except with the consent in writing of the Bank, purchase or subscribe to:

- (a) securities of the Commonwealth or of a State, or of any authority of the Commonwealth or of a State;
- (b) securities of any local governing body in Australia; or
- (c) securities listed on a Stock Exchange in Australia.

Penalty: Five Hundred thousand dollars.

PART III - FOREIGN EXCHANGE

24. Exchange Control

24.1 Where the Bank is satisfied that it is expedient so to do, for the protection of the currency or of the public credit of the Commonwealth, or in order to conserve, in the national interest, the foreign exchange resources of the Commonwealth, the Bank with the approval of the Treasurer may make regulations, not inconsistent with this Act or the Commonwealth National Bank Act 2018, making provision for and in relation to the control of foreign exchange and, in particular, but without limiting the generality of the foregoing, for or in relation to:

- (a) the buying, borrowing, selling, lending or exchanging of foreign currency, including the fixing of rates of exchange;
- (b) any dealing or transaction having the effect of a purchase, borrowing, sale, loan or exchange of foreign currency;
- (c) the taking or sending out of Australia of gold, Australian currency or foreign currency;
- (d) requiring any person who has power to sell, or to procure the sale of, any foreign currency to sell, or procure the sale of, that foreign currency as prescribed;
- (e) the taking, sending or transfer of any securities to a place outside Australia, including the transfer of securities from a register in Australia to a register outside Australia;
- (f) the prohibition of the importation or exportation of goods unless a licence under

the regulations to import or export the goods is in force;

- (g) the terms and conditions to which such licences may be subject; and
- (h) prescribing penalties not exceeding a fine of Fifty thousand dollars or imprisonment for a period not exceeding five years for any offence against the regulations made under this section.

24.2 In this section:

Australian currency includes notes, coins, postal notes, money orders, bills of exchange, promissory notes, drafts, letters of credit and travellers' cheques, payable or expressed in Australian money, and also includes rights, and instruments of title, to Australian money;

foreign currency includes notes, coins, postal notes, money orders, bills of exchange, promissory notes, drafts, letters of credit and travellers' cheques, payable or expressed otherwise than in Australian money, and also includes rights, and instruments of title, to money other than Australian money;

securities includes shares, stock, bonds, debentures, debenture stock, Treasury Bills, and units or sub-units of a unit trust, and also includes deposit receipts in respect of the deposit of securities and documents of title to securities.

PART V - INTEREST RATES

25. Control of interest rates

25.1 The Bank may, with the approval of the Treasurer, make regulations:

- (a) making provision for and in relation to the control of rates of interest payable to or by banks, or to or by other persons in the course of any banking business carried on by them;
- (b) making provision for and in relation to the control of rates of discount chargeable by banks, or by other persons in the course of any banking business carried on by them; and
- (c) providing that interest shall not be payable in respect of:
 - (i) any amount deposited with a bank, or with any other person in the course of any banking business carried on by him, and repayable on demand or after the expiration of a period specified in the regulations; or
 - (ii) so much of the amount to the credit of a deposit account in a savings bank as exceeds an amount specified in the regulations.

- 25.2 Any person who contravenes or fails to comply with any regulation under this section shall be guilty of an offence punishable:
- (a) if the offence is prosecuted summarily - by a fine not exceeding Five thousand dollars or imprisonment for a term not exceeding six months; or
 - (b) if the offence is prosecuted upon indictment - by a fine not exceeding Fifty thousand dollars or imprisonment for a term not exceeding five years.

PART V - STATISTICS

26. Balance-sheets and statements to be furnished by banks

- 26.1 Each bank holding an authority issued pursuant to Section 9 of this Act shall prepare:
- (a) a balance-sheet as at the close of business on a date in each year prescribed in respect of that bank;
 - (b) a statement of its profit and loss in respect of each year ending on that date;
 - (c) a statement of its income and expenditure in respect of its Australian business in respect of each year ending on that date;
 - (d) a statement of liabilities and assets within Australia;
 - (e) a statement of debits to customers' accounts;
 - (f) a statement of its foreign currency position;
 - (g) a statement of loans, advances and bills discounted, classified according to:
 - (i) the purpose of the loan, advance or discounting;
 - (ii) the rate of interest or discount chargeable; and
 - (iii) the industry of the borrower or person for whom the bill is discounted;
 - (h) a statement of deposits, classified according to:
 - (i) the term of the deposit;
 - (ii) the rate of interest payable;
 - (iii) the industry of the depositor; and
 - (iv) such additional statements as are prescribed.

27. Directions in respect of forms

- 27.1 Each balance-sheet and statement referred to in the last preceding section shall be prepared in accordance with directions instructions as are given by the Bank, and copies of the balance-sheet or statement shall be delivered to the Commonwealth Statistician or to the Bank, or to both, in accordance with the directions specified in the balance-sheet or statement in accordance with the form prescribed by the Bank.

28. Verification of balance-sheets and statements

- 28.1 Every balance-sheet and statement prepared under this Part shall be verified by a statutory declaration made by a senior officer of the bank concerned.

29. Certain statements to be published in the Gazette

- 29.1 From the balance-sheets and the statements of profit and loss in delivered to the Commonwealth Statistician, the Commonwealth Statistician shall prepare, and shall publish in the Gazette, a statement showing, in respect of each bank, the liabilities, assets and profit and loss of that bank.
- 29.2 From the statements of liabilities and assets within Australia delivered to the Commonwealth Statistician, the Commonwealth Statistician shall prepare, and shall publish in the Gazette, a statement, in respect of each bank, of the average of that bank's liabilities and assets within Australia for each month.

30. Publication of other statements

- 30.1 From the information contained in the balance-sheets and statements delivered to him in pursuance of this Part, the Commonwealth Statistician shall prepare and publish such other statements as the Treasurer directs, but no such statement shall be in such a form as to disclose the information supplied by any individual bank, except in so far as that information is contained in any balance-sheet or statement referred to in the last preceding section.

31. Penalty

- 31.1 A bank shall not contravene or fail to comply with any of the provisions of this Part which are applicable to it.

Penalty: One million dollars.

32. Exemptions

- 32.1 The Treasurer may, by instrument in writing, exempt any bank from the obligation to prepare and deliver any balance-sheet or statement, so long as the exemption continues, that bank shall be exempt accordingly.

PART VI - MISCELLANEOUS

33. Reports by Auditor-General

- 33.1 The Auditor-General shall investigate periodically the books, accounts and transactions of each bank and shall furnish to the Treasurer and to the Bank such reports upon the affairs of each bank as the Treasurer directs.
- 33.2 The Treasurer may at any time direct the Auditor-General to make an investigation of the books, accounts and transactions of a bank specified by the Treasurer and to furnish to the Treasurer and to the Bank such reports upon the affairs of that bank as the Treasurer directs and the Auditor-General shall make an investigation and furnish

reports accordingly.

33.3 Nothing in this section shall authorise the Auditor-General to furnish a report with respect to the affairs of any individual customer of a bank.

33.4 For the purpose of any investigation under this section, a bank shall afford the Auditor-General access to its books, accounts and documents and shall give to the Auditor-General such information and facilities as he requires to conduct the investigation.

Penalty: Five Hundred thousand dollars for each day during which the contravention continues.

34. Supply of information

34.1 Every bank shall furnish to the Bank such information in respect of its business as the Bank directs, and every person who carries on any banking business in Australia shall furnish to the Bank such information in connection with its banking business as the Bank directs.

Penalty: Two Hundred and Fifty thousand dollar.

34.2 A direction under this section shall not require information to be furnished with respect to the affairs of any individual customer.

35. Amalgamation etc. requires consent of the Treasurer

35.1 Except with the prior consent in writing of the Treasurer, after the receipt by him of a recommendation of the Bank, a bank shall not:

- (a) enter into any arrangement or agreement for any sale or disposal of its business by amalgamation or otherwise, or for the carrying on of business in partnership with any other bank; or
- (b) effect any reconstruction of the bank.

Penalty: Five Hundred Thousand dollars.

35.2 Any such arrangement, agreement or reconstruction, and any such sale or disposal in pursuance of any such arrangement or agreement, entered into without the prior consent of the Treasurer shall be void and of no effect.

36. Settlement of balances between banks

36.1 Each bank holding an authority issued pursuant to Section 9 of this Act shall settle, by means of cheques drawn on and paid into the Bank, the balances arising, between itself and any other bank so specified, out of any customary general clearance effected in any capital city in Australia.

Penalty: Two Hundred Thousand dollars.

37. Banks may be directed to comply with Act

37.1 Where any bank is convicted of an offence against this Act or the regulations, a Full Court of the High Court constituted by not less than three Justices may, upon the application of the Attorney-General, by motion, direct compliance

by the bank, within a period specified by the Court, with the provisions of this Act or the regulations with which the bank has failed to comply.

37.2 In default of compliance by the bank within the specified period with any direction given by the Court in pursuance of the last preceding sub-section, the Court may authorise the Bank to assume control of, and to carry on, the business of that bank.

37.3 The provisions of section 13 of this Act shall, so far as applicable, have effect where the Bank has assumed control of the business of a bank in pursuance of the last preceding sub-section.

37.4 Where the Bank has assumed control of the business of a bank in pursuance of sub-section (2) of this section, the Bank shall remain in control of, and shall continue to carry on, the business of that bank until such time as the High Court is satisfied that it is no longer necessary for the Bank to remain in control of the business of that bank and authorises the Bank to cease to control the business of that bank.

38. Restriction of use of word 'bank'

38.1 A person or body of persons, not being a bank, shall not assume or use, in relation to the business, or any part of the business, carried on by that person or body, the word "bank", "banker" or "banking" or any word of a like import.

Penalty: Twenty Thousand dollars for each day during which the contravention continues.

38.2 Nothing in this section shall be deemed to prohibit the use, by any person or body of persons, of any word in use by that person or body immediately prior to the commencement of this Part:

- (a) for a period of six months after the commencement of this Part; or
- (b) where the Treasurer, in writing, authorises the continued use of the word.

39. Unclaimed moneys

39.1 Every bank specified in the First Schedule, including the Bank, shall, within three months after the thirty-first day of December in each year, deliver to the Treasurer a statement of all unclaimed moneys.

39.2 The statement shall set forth the name of each shareholder, depositor or creditor, his last-known address, the amount due, the office or branch of the bank at which the last transaction took place, and the date thereof, and, if the shareholder, depositor or creditor is known to the bank to be dead, the statement shall show the names and addresses of his legal representatives so far as known to the bank.

39.3 The total amount shown in the statement shall be:
(a) paid by the bank to the Treasurer at the time

of the delivery of the statement;

- (b) credited by the Treasurer to the Trust Fund established by the Audit Act 1901-1934;
- (c) available during six years after payment to the Treasurer for payment to the persons whom the bank was liable to pay or to the respective administrators, executors or assigns of those persons; and
- (d) paid thereafter to the Consolidated Revenue Fund.

39.4 After the payment to the Consolidated Revenue Fund of any unclaimed moneys, the Treasurer may pay to any person to whom any amount of such moneys was due by the bank the amount so due.

39.5 Upon payment to the Treasurer of any amount as required by this section, the bank shall be held to be discharged from further liability for the amount so paid.

39.6 The Consolidated Revenue Fund is hereby appropriated for the purposes of, and to the extent necessary to give effect to, subsection (4) of this section.

39.7 Particulars of every sum not less than Five hundred dollars included in the statement mentioned in this section shall be published by the Treasurer in the Gazette.

39.8 A bank shall not contravene or fail to comply with any provision of this section which is applicable to it.

Penalty: Twenty Thousand dollars.

39.9 For the purposes of this section, “**unclaimed moneys**” means all principal, interest, dividends, bonuses, profits and sums of money whatsoever which are legally payable by a bank but in respect of which the time within which proceedings may be taken for the recovery thereof has expired, and includes moneys to the credit of an account which has not been operated on, either by deposit or withdrawal, for a period of not less than seven years.

40. Penalties on executive officers

40.1 Where any offence against this Act or the regulations has been committed by any body corporate, the chief executive officer in Australia of the body corporate shall be liable to the

penalty provided in respect of that offence, but nothing in this section shall affect the liability of the body corporate.

41. Treasurer to consent to proceedings for offences

41.1 Proceedings for an offence against this Act or the regulations shall not be instituted without the consent in writing of the Treasurer.

42. Certificate as to certain facts

42.1 The production of any certificate purporting to have been given by the Governor or Deputy Governor of the Bank certifying to any matter relating to the failure of any person to comply with any of the provisions of this Act or the regulations shall in all courts be prima facie evidence that those matters are as so certified.

43. Regulations

43.1 The Governor with the consent of the Treasurer may make regulations, not inconsistent with this Act, prescribing all matters which by this Act 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 or for the conduct of business by the Bank and, in particular, prescribing penalties not exceeding 10 penalty units for offences against the regulations.

44. APRA & the Banking Act 1959

44.1 The Banking Act 1959 as amended is amended by the deletion of all references therein to “APRA” and the substitution of the words “the Commonwealth National Credit Bank” in lieu thereof.

44.2 The Bank may amend, revoke or extend any legislative instrument which may have been implemented by APRA in the exercise of any power granted to APRA by the Banking Act 1959 as amended.

44.3 In the event of any conflict between the provisions of the Banking Act 1959 as amended and the Commonwealth National Credit Bank (Bank Regulation) Act 2018 then the provisions of the Commonwealth National Credit Bank (Bank Regulation) Act 2018 shall prevail.

First Schedule

[**List of Banks presently licensed by APRA pursuant to the Banking Act 1959 as amended**]

