



Commonwealth Banks Amendment Act 1987

No. 182 of 1987

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Commonwealth Banks Amendment Act 1987

No. 182 of 1987

An Act to amend the *Commonwealth Banks Act 1959*, and for related purposes

[Assented to 26 December 1987]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title etc.

1. (1) This Act may be cited as the *Commonwealth Banks Amendment Act 1987*.

(2) In this Act, "Principal Act" means the *Commonwealth Banks Act 1959*.

Commencement

2. (1) Sections 3 and 32 shall come into operation on 30 June 1988.

(2) Sections 27, 28, 29 and 35, subsection 34 (2) and Part II of the Schedule shall come into operation on 1 July 1988.

(3) The remaining provisions of this Act shall come into operation on the twenty-eighth day after the day on which this Act receives the Royal Assent.

3. After section 7 of the Principal Act the following section is inserted:

Assets and liabilities of the Corporation

“7A. (1) The property of the Corporation, whether acquired before or after the commencement of this section, vests in the Commonwealth Bank.

“(2) The liabilities of the Corporation, whether incurred before or after the commencement of this section, shall be deemed to be liabilities incurred by the Commonwealth Bank.

“(3) Any legal proceedings started against the Corporation before the commencement of this section in respect of a liability of the Corporation may be heard and determined as if this section had not been passed but any liability of the Corporation incurred as a result of those proceedings shall be deemed to have been incurred by the Commonwealth Bank.

“(4) A certificate by the Managing Director or a person authorised in writing by the Managing Director stating that specified property is property that vested in the Commonwealth Bank under this section is, for all purposes and in all legal proceedings, *prima facie* evidence of the matters stated in the certificate.

“(5) This section does not apply in relation to any property held by the Corporation in respect of a superannuation fund established under section 110 or any liability incurred by the Corporation in respect of such a fund.”.

Functions of Commonwealth Banking Corporation Board

4. Section 9 of the Principal Act is amended by adding at the end the following subsection:

“(3) The Board shall, in exercising its powers, have regard to the need for the Corporation, the Commonwealth Bank, the Savings Bank and the Development Bank to perform economically and efficiently and to operate in accordance with commercial principles.”.

5. After section 9 of the Principal Act the following section is inserted:

Delegation by Board

“10. (1) The Board may, by resolution, delegate to a committee of the Board, comprising 2 or more members of the Board, all or any of its powers or functions under this Act, other than this power of delegation.

“(2) A power or function so delegated, when exercised or performed by the delegate, shall for the purposes of this Act be deemed to have been exercised or performed by the Board.

“(3) A delegation does not prevent the exercise of a power or performance of a function by the Board.”.

Differences of opinion on questions of policy

6. Section 11 of the Principal Act is amended:

(a) by inserting after subsection (2) the following subsections:

“(2A) The Board shall, from time to time and at least once in each year, prepare a corporate plan setting out:

- (a) its objectives in relation to the operations of the Commonwealth Bank, the Savings Bank and the Development Bank; and
- (b) an outline of the policies to be pursued to achieve those objectives.

“(2B) The objectives specified under paragraph (2A) (a) shall include financial objectives, including the level of profitability and rate of return on resources.

“(2C) The Board shall give the Treasurer a copy of each corporate plan as soon as practicable after it is prepared.

“(2D) The period during which a corporate plan shall remain in effect shall be determined by the Board in consultation with the Treasurer.

“(2E) The Treasurer may, by notice in writing given to the Board within one month after the Treasurer receives a corporate plan (or within such further period as is agreed between the Treasurer and the Board), request the Board to vary the plan in the manner specified in the notice.

“(2F) The Board may vary a corporate plan on the request of the Treasurer or on its own motion.

“(2G) Where the Board varies a corporate plan, it shall, within one month after making the variation (or within such further period as is agreed between the Treasurer and the Board), notify the Treasurer in writing of the variation.

“(2H) The Treasurer may, by notice in writing given to the Board within one month after the Treasurer receives a notice of a variation (or within such further period as is agreed between the Treasurer and the Board), request the Board to alter the variation in the manner specified in the notice.

“(2J) In the event of a difference of opinion between the Treasurer and the Board in relation to a corporate plan, or any variation of a corporate plan, the Treasurer and the Board shall endeavour to reach agreement.”; and

(b) by inserting in subsection (3) “under subsection (2) or (2J)” after “agreement”.

Management of the Corporation

7. Section 12 of the Principal Act is amended by inserting after subsection (2) the following subsection:

“(2A) In managing the Corporation, the Managing Director may exercise or perform, on behalf of the Corporation, all or any of the powers or functions of the Corporation other than such of those powers or functions, if any, as are specified by the Board.”.

8. After section 12 of the Principal Act the following section is inserted:

Delegation by the Managing Director

“12A. (1) The Managing Director may, either generally or as otherwise provided by the instrument of delegation, by instrument in writing, delegate to an officer of the Corporation all or any of the Managing Director’s powers or functions under this Act, other than this power of delegation.

“(2) A power or function so delegated, when exercised or performed by the delegate, shall for the purposes of this Act be deemed to have been exercised or performed by the Managing Director.

“(3) A delegation does not prevent the exercise of a power or performance of a function by the Managing Director.”.

Membership of Board

9. Section 14 of the Principal Act is amended:

(a) by omitting paragraph (2) (a) and substituting the following paragraph:

“(a) shall be appointed for such period, not exceeding 5 years, as is specified in the instrument of appointment but is eligible for re-appointment; and”;

(b) by omitting subsection (4).

Vacation of office

10. Section 17 of the Principal Act is amended:

(a) by omitting paragraph (1) (c);

(b) by omitting from paragraph (1) (d) “Treasurer” and substituting “Board”; and

(c) by inserting after subsection (1) the following subsections:

“(1A) A member of the Board appointed under paragraph 14 (1) (d) may resign by delivering to the Governor-General a signed notice of resignation.

“(1B) The Board may grant leave to a member of the Board appointed under paragraph 14 (1) (d) to be absent from a meeting of the Board upon such conditions (including conditions relating to remuneration) as the Board thinks fit.”.

Meetings of Board

11. Section 19 of the Principal Act is amended:

(a) by inserting after subsection (2) the following subsection:

“(2A) Where both the Chairman and the Deputy Chairman are absent from a meeting of the Board, a member chosen by the other members present at the meeting shall preside.”;

(b) by omitting from subsection (3) “, of whom the Chairman or the Deputy Chairman shall be one,”; and

(c) by adding at the end the following subsection:

“(6) Where all members entitled to vote on a proposed resolution notify the Chairman in writing that they agree with the resolution, the resolution shall be taken to have been passed by the Board on the day on which the Chairman receives the last notification.”.

Disclosure of pecuniary interests of members

12. Section 24 of the Principal Act is amended:

(a) by inserting after subsection (3) the following subsection:

“(3A) A member of the Board who has disclosed under this section a prescribed interest in a matter that is being or is about to be considered by the Board may, unless the Board otherwise determines, be present during any deliberations of the Board, and take part in any decisions of the Board, with respect to the matter.”;

(b) by omitting from subsection (4) “the nature of the member’s” and substituting “an interest other than a prescribed”;

(c) by omitting from subsection (5) “subsection (4)” and substituting “subsection (3A) or (4)”;

(d) by adding at the end the following subsection:

“(6) This section does not apply to a pecuniary interest of a member who is a customer of the Commonwealth Bank, the Savings Bank or the Development Bank, being an interest that the member has as a customer and in common with other customers.”.

Vacation of office

13. Section 26 of the Principal Act is amended:

(a) by omitting paragraph (b) and substituting the following paragraph:

“(b) engages in any paid employment outside the duties of his or her office without the approval of the Treasurer; or”;

(b) by omitting from paragraph (c) “or” (last occurring);

(c) by omitting paragraph (d); and

(d) by adding at the end the following subsection:

“(2) The Managing Director and the Deputy Managing Director may resign by delivering to the Governor-General a signed notice of resignation.”.

General functions of Commonwealth Bank

14. Section 28 of the Principal Act is amended:

(a) by inserting after subsection (1) the following subsection:

“(1A) The Commonwealth Bank may provide insurance services if, in the opinion of the Board, it is necessary to do so to enable the Commonwealth Bank to remain competitive with other banks.”; and

(b) by omitting subsection (3).

Powers of Commonwealth Bank

15. Section 29 of the Principal Act is amended by omitting subsections (2) and (3) and substituting the following subsection:

“(2) Without limiting the generality of subsection (1), the Commonwealth Bank has power, in addition to any other powers conferred on it by this Act:

- (a) to receive money on deposit;
- (b) to borrow money;
- (c) to lend money;
- (d) to subscribe for, buy, sell, discount, re-discount, redeem and otherwise deal in bills of exchange, promissory notes, Treasury notes and other securities issued by the Commonwealth, and other securities and instruments;
- (e) to buy, sell and otherwise deal in foreign exchange, foreign currency hedging instruments, gold and other precious metals;
- (f) to establish credits and engage in hire-purchase and lease financing and factoring;
- (g) to carry on (whether as principal, agent, manager, broker or otherwise) all kinds of insurance, re-insurance, assurance, annuity guarantee and indemnity business;
- (h) to issue bills and drafts and effect transfers of money;
- (j) to guarantee the due fulfilment of contracts and obligations by any person;
- (k) to act as attorney for any person;
- (m) to promote, effect, guarantee, underwrite, manage and carry out:
 - (i) any issue of shares, stock or debenture stock of any body corporate or association;
 - (ii) any issue of bonds of any description; and
 - (iii) any joint lending operations;and to borrow or lend money for the purposes of any such issue or operation;
- (n) to operate unit trusts;
- (p) with the approval of the Treasurer, to join in the formation of subsidiary companies;
- (q) to enter into a partnership, or an arrangement for sharing of profits;

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- (r) to subscribe for, buy, or otherwise acquire, and to hold, sell or otherwise deal in, shares, stocks, debenture stocks and other similar instruments;
- (s) to act as principal, agent or broker in stock and share broking and commodity and commodity futures dealings;
- (t) to be a member (whether alone or in partnership or joint venture, or as a shareholder in a body corporate) of stock and securities exchanges and commodity exchanges;
- (u) to keep for a body corporate, association or authority any register relating to funds, shares, stocks or other securities of the body corporate, association or authority and to undertake any duties in relation to such funds, shares, stocks or securities, including the registration of transfers and the issue of certificates;
- (w) to act as trustee of, and to administer:
 - (i) any superannuation, pension, provident or retirement fund scheme;
 - (ii) any property trust; or
 - (iii) any other trust;and to act as executor or administrator of the estate of a deceased person;
- (y) to furnish managerial, financial, technical and administrative advice and services to any person and to assist a person to obtain such advice and services;
- (z) to process (whether as principal or agent) debit and credit card arrangements;
- (za) to provide facilities (whether as principal or agent) for the merchandising of goods and services;
- (zb) to provide computer hardware and software facilities;
- (zc) to act as agent in the provision of financial services, including the settlement of financial transactions;
- (zd) to subscribe for, and to hold, shares in the capital of the Savings Bank; and
- (ze) to do anything incidental to any of its powers.”.

16. (1) Section 32 of the Principal Act is repealed and the following section is substituted:

Payment of dividends by Commonwealth Bank

“32. (1) The Board shall, not later than 3 months after the end of each financial year, recommend in writing to the Treasurer whether the Commonwealth Bank should pay to the Commonwealth a dividend in respect of the operations of the Commonwealth Bank and the Savings Bank during that year and, if so, the amount of the dividend.

“(2) In making a recommendation, the Board shall have regard to:

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- (a) the need to ensure that the Commonwealth receives a reasonable rate of return on the capital and reserves of the Commonwealth Bank and the Savings Bank;
- (b) the need to increase the reserves of the Commonwealth Bank and the Savings Bank to fund the expansion of their activities and to enable them to comply with the capital adequacy guidelines applicable in the banking industry; and
- (c) any other relevant commercial considerations.

“(3) The Treasurer shall, not later than one month after receiving a recommendation, by notice in writing given to the Board:

- (a) accept the recommendation; or
- (b) specify an amount, or a different amount, to be paid by way of dividend by the Commonwealth Bank to the Commonwealth in respect of the operations of the Commonwealth Bank and the Savings Bank during the financial year to which the recommendation relates.

“(4) Where the Board recommends payment of an amount that is less than 45% of the sum of:

- (a) so much of the net profits of the Commonwealth Bank for the financial year to which the recommendation relates as does not comprise dividends paid to the Commonwealth Bank by the Savings Bank; and
- (b) the net profits of the Savings Bank for that year;

the Treasurer shall not specify a different amount that is more than 45% of the sum of those net profits.

“(5) In making a decision under subsection (3), the Treasurer shall have regard to the matters specified in subsection (2).

“(6) The Commonwealth Bank shall, as soon as practicable after the Treasurer makes a decision under subsection (3), pay to the Commonwealth an amount equal to:

- (a) where the Treasurer accepts the recommendation—the amount specified in the recommendation; or
- (b) in any other case—the amount specified by the Treasurer under paragraph (3) (b).”.

(2) The section inserted in the Principal Act by subsection (1) applies in relation to the financial year commencing on 1 July 1987 and to subsequent years.

Management of Commonwealth Bank

17. Section 35 of the Principal Act is amended by inserting after subsection (2) the following subsection:

“(2A) In managing the Commonwealth Bank, the Managing Director, and the person managing the Commonwealth Bank under subsection (1),

may, in accordance with the policy of the Commonwealth Bank and the directions of the Board, perform any function, or exercise any power, of the Commonwealth Bank on its behalf.”.

18. Section 36 of the Principal Act is repealed and the following section is substituted:

Commonwealth Bank to pay expenses of Corporation

“36. The Commonwealth Bank shall pay all of the expenses of the Corporation.”.

General functions of Savings Bank

19. Section 41 of the Principal Act is amended by inserting after subsection (1) the following subsection:

“(1A) The Savings Bank may provide insurance services if, in the opinion of the Board, it is necessary to do so to ensure that the Savings Bank remains competitive with other savings banks.”.

Powers of Savings Bank

20. Section 42 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) Without limiting the generality of subsection (1), the Savings Bank has power, in addition to any other powers conferred on it by this Act:

- (a) to receive money on deposit;
- (b) to borrow money;
- (c) to lend money;
- (d) to subscribe for, buy, sell, discount, re-discount, redeem and otherwise deal in bills of exchange, promissory notes, Treasury notes and other securities issued by the Commonwealth, and other securities and instruments;
- (e) to buy, sell and otherwise deal in foreign exchange, foreign currency hedging instruments, gold and other precious metals;
- (f) to establish credits and engage in hire-purchase and lease financing and factoring;
- (g) to carry on (whether as principal, agent, manager, broker or otherwise) all kinds of insurance, re-insurance, assurance, annuity guarantee and indemnity business;
- (h) to issue bills and drafts and effect transfers of money;
- (j) to guarantee the due fulfilment of contracts and obligations by any person;
- (k) to act as attorney for any person;
- (m) to promote, effect, guarantee, underwrite, manage and carry out:
 - (i) any issue of shares, stock or debenture stock of any body corporate or association;
 - (ii) any issue of bonds of any description; and

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- (iii) any joint lending operations;
and to borrow or lend money for the purposes of any such issue or operation;
- (n) to operate unit trusts;
- (p) with the approval of the Treasurer, to join in the formation of subsidiary companies;
- (q) to enter into a partnership, or an arrangement for sharing of profits;
- (r) to subscribe for, buy, or otherwise acquire, and to hold, sell or otherwise deal in shares, stocks, debenture stocks and other similar instruments;
- (s) to act as principal, agent or broker in stock and share broking and commodity and commodity futures dealings;
- (t) to be a member (whether alone or in partnership or joint venture, or as a shareholder in a body corporate) of stock and securities exchanges and commodity exchanges;
- (u) to keep for a body corporate, association or authority any register relating to funds, shares, stocks or other securities of the body corporate, association or authority and to undertake any duties in relation to such funds, shares, stocks or securities, including the registration of transfers and the issue of certificates;
- (w) to act as trustee of, and to administer:
 - (i) any superannuation, pension, provident or retirement fund scheme;
 - (ii) any property trust; or
 - (iii) any other trust;and to act as executor or administrator of the estate of a deceased person;
- (y) to furnish managerial, financial, technical and administrative advice and services to any person and to assist a person to obtain such advice and services;
- (z) to process (whether as principal or agent) debit and credit card arrangements;
- (za) to provide facilities (whether as principal or agent) for the merchandising of goods and services;
- (zb) to provide computer hardware and software facilities;
- (zc) to act as agent in the provision of financial services, including the settlement of financial transactions; and
- (zd) to do anything incidental to any of its powers.”.

Management of Savings Bank

21. Section 47 of the Principal Act is amended by adding at the end the following subsection:

“(3) In managing the Savings Bank, the Managing Director, and the person managing the Savings Bank under subsection (1), may, in accordance

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with the policy of the Savings Bank and the directions of the Board, perform any function, or exercise any power, of the Savings Bank on its behalf.”

Savings Bank to pay share of expenses of Corporation

22. Section 48 of the Principal Act is amended by omitting “the Corporation an amount determined by the Board to be the proportion” and substituting “the Commonwealth Bank the amount”.

Powers of Development Bank

23. Section 74 of the Principal Act is amended by omitting paragraphs (2) (d) to (i), inclusive, and substituting the following paragraphs:

- “(d) to subscribe for, buy, sell, discount, re-discount, redeem and otherwise deal in bills of exchange, promissory notes, Treasury notes and other securities issued by the Commonwealth, and other securities and instruments;
- (e) to establish credits and engage in hire-purchase and lease financing and factoring;
- (f) to issue bills and drafts and effect transfers of money;
- (g) to guarantee the due fulfilment of contracts and obligations by any person or body corporate;
- (h) to underwrite loans and issues of capital;
- (j) to join in the formation of a company;
- (k) to subscribe for, buy, or otherwise acquire, and to dispose of, shares, stocks, debenture stocks and other securities;
- (m) to enter into a partnership, or an arrangement for sharing of profits; and
- (n) to do anything incidental to any of its powers.”

24. (1) After section 77 of the Principal Act the following section is inserted:

Payment of dividends by Development Bank

“77A. (1) The Board shall, not later than 3 months after the end of each financial year, recommend in writing to the Treasurer whether the Development Bank should pay to the Commonwealth a dividend in respect of the operations of the Development Bank during that year and, if so, the amount of the dividend.

- “(2) In making a recommendation, the Board shall have regard to:
 - (a) the need to ensure that the Commonwealth receives a reasonable rate of return on the capital and reserves of the Development Bank;
 - (b) the need to maintain the reserves of the Development Bank to support the funding requirements of small business on reasonable terms and conditions and to ensure that the level of capital and reserves of the Development Bank is appropriate having regard to the nature of its business; and

(c) any other relevant commercial considerations.

“(3) The Treasurer shall, not later than one month after receiving the recommendation, by notice in writing given to the Board:

- (a) accept the recommendation; or
- (b) specify an amount, or a different amount, to be paid by way of dividend by the Development Bank to the Commonwealth in respect of the operations of the Development Bank during the financial year to which the recommendation relates.

“(4) Where the Board recommends payment of an amount that is less than 45% of the net profits of the Development Bank for the financial year to which the recommendation relates, the Treasurer shall not specify a different amount that is more than 45% of those net profits.

“(5) In making a decision under subsection (3), the Treasurer shall have regard to the matters specified in subsection (2).

“(6) The Development Bank shall, as soon as practicable after the Treasurer makes a decision under subsection (3), pay to the Commonwealth an amount equal to:

- (a) where the Treasurer accepts the recommendation—the amount specified in the recommendation; or
- (b) in any other case—the amount specified by the Treasurer under paragraph (3) (b).”.

(2) The section inserted in the Principal Act by subsection (1) applies in relation to the financial year commencing on 1 July 1987 and to subsequent years.

(3) The Development Bank shall pay to the Commonwealth on or before 30 June 1988 by way of dividend, in relation to its operations during the financial year ending on that day, an amount of \$6.9 millions in addition to any amount payable in relation to those operations in accordance with the section inserted in the Principal Act by subsection (1).

Management of Development Bank

25. Section 80 of the Principal Act is amended by adding at the end the following subsection:

“(3) In managing the Development Bank, the Managing Director and the person managing the Development Bank under subsection (1), may, in accordance with the policy of the Development Bank and the directions of the Board, perform any functions, or exercise any powers, of the Development Bank on its behalf.”.

Development Bank to pay share of expenses of Corporation

26. Section 81 of the Principal Act is amended by omitting “the Corporation an amount determined by the Board to be the proportion” and substituting “the Commonwealth Bank the amount”.

27. After section 87 of the Principal Act the following section is inserted in Division 2 of Part VIII:

Application of merit principle, prohibition of patronage etc.

“87A. The appointment, promotion and transfer of officers shall be in accordance with procedures that preclude patronage and favouritism and ensure that:

- (a) all persons have, so far as practicable, a reasonable opportunity to apply for appointment or be considered for, promotion or transfer, as the case may be; and
- (b) appointments, promotions and transfers are made on the basis of an assessment of the relevant suitability of the persons considered for appointment, promotion or transfer, as the case may be, having regard to:
 - (i) the nature of the duties to be performed by the person appointed, promoted or transferred; and
 - (ii) the abilities, qualifications, experience and other attributes of each person so considered that are relevant to the performance of those duties.”.

28. Sections 88 and 89 of the Principal Act are repealed and the following section is substituted:

Appointment of officers

“88. (1) The Corporation may appoint such officers as are necessary for the purposes of this Act.

“(2) The officers appointed by the Corporation constitute the Commonwealth Banking Corporation Service.

“(3) The terms and conditions of employment of officers shall be determined by the Corporation.”.

Benefits

29. Section 110A of the Principal Act is amended:

- (a) by omitting subsection (1) and substituting the following subsection:

“(1) The regulations may make provision for and in relation to the payment, in such circumstances as are prescribed, to or in respect of an officer who has been retired from the Service of a benefit, whether by way of lump sum or otherwise, ascertained in accordance with the regulations.”; and
- (b) by omitting from subsection (2) “either or both of the paragraphs of subsection (1)” and substituting “that subsection”.

30. Section 112 of the Principal Act is repealed and the following section is substituted:

Entitlements of statutory officers

“112. (1) On the death, retirement, or termination of the period of office, of a statutory officer who was not an officer of the Service immediately before his or her appointment as a statutory officer, there is payable to or in respect of the officer the same benefits that would have been payable if he or she had been an officer of the Service during the period when he or she held office as a statutory officer.

“(2) On the death, retirement, or termination of the period of office, of a statutory officer who was an officer of the Service immediately before his or her appointment as a statutory officer, there is payable to or in respect of the officer the same benefits that would have been payable if he or she had remained an officer of the Service during the period when he or she held office as a statutory officer.”.

31. Section 118 of the Principal Act is repealed and the following section is substituted:

Accounts and records

“118. A body to which this Part applies shall:

- (a) cause proper accounts and records of the transactions and affairs of the body to be kept in accordance with the accounting principles generally applied in commercial practice; and
- (b) do all things necessary to ensure that all payments are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the body and over the incurring of liabilities by the body.”.

Taxation

32. Section 119 of the Principal Act is amended by adding at the end the following subsections:

“(3) Stamp duty or other tax under a law of the Commonwealth is not payable in respect of the vesting of an asset of the Corporation in the Commonwealth Bank under section 7A.

“(4) The *Income Tax Assessment Act 1936* applies in relation to the Commonwealth Bank with respect to any property that becomes vested in the Commonwealth Bank under section 7A as if the Commonwealth Bank were the Corporation.”.

33. After section 124 of the Principal Act the following sections are inserted:

Affixing of seals

“124A. (1) Where the seal of a body to which this Part applies is affixed to a document, the Managing Director, or any person authorised by the Managing Director, may sign the document as witness to the affixing of the seal.

“(2) A person dealing with a body to which this Part applies is entitled to assume that the seal of that body has been duly affixed to a document that bears what appears to be an impression of that seal and that appears to have been signed by a person described as the Managing Director, or a person authorised by the Managing Director, as witness to the affixing of the seal.

“(3) This section shall not be taken to affect the operation of any other law of the Commonwealth or of a State or Territory relating to the execution of documents by bodies corporate.

Persons dealing with bodies

“124B. A person dealing with a body to which this Part applies is entitled to assume that an exercise of a power, or the performance of a function, by the Managing Director, or any person managing the body, is in accordance with the policy of the body and the directions of the Board.”

Other amendments

34. (1) The Principal Act is amended as set out in Part I of the Schedule.

(2) The Principal Act is further amended as set out in Part II of the Schedule.

Savings

35. (1) Where, immediately before the commencing day, a person:

- (a) had a right of appeal to the Promotions Appeal Board or the Tenure and Disciplinary Appeal Board but had not instituted an appeal; or
- (b) had instituted an appeal and the appeal had not been determined before that day;

sections 87, 100, 101, 102, 103, 106, 107, 108 and 109 of the Principal Act, as in force immediately before that day, continue to apply in relation to the person until:

- (c) in the case of a person referred to in paragraph (a)—the right of appeal expires or any appeal instituted in the exercise of that right is determined; or
- (d) in the case of a person referred to in paragraph (b)—the appeal is determined.

(2) Where a person appointed under section 88 or 89 of the Principal Act as in force at any time before the commencing day, was an officer or employee of the Corporation immediately before that day:

- (a) the appointment of the person shall, on and after that day, be deemed to be an appointment under section 88 of the Principal Act as amended by this Act; and
- (b) the terms and conditions that applied to the person immediately before that day shall continue to apply on and after that day as if

they had been determined by the Corporation under section 88 of the Principal Act as amended by this Act.

(3) In this section, "commencing day" means the day on which this section comes into operation.

SCHEDULE

Section 34

OTHER AMENDMENTS OF THE PRINCIPAL ACT

PART I

Section 5:

Omit "Subject to section 5A, this", substitute "This".

Section 5A:

Repeal the section.

Section 15:

Omit "an oath or affirmation of allegiance in accordance with the form in the Schedule to the Constitution and".

Subsection 16 (2):

Omit the subsection.

Section 39:

Repeal the section.

Section 51:

Repeal the section.

Section 52:

Repeal the section.

Part VI:

Repeal the Part.

Section 85A:

Repeal the section.

Section 111:

Repeal the section.

Section 113:

Repeal the section.

SCHEDULE—continued

Section 115:

Repeal the section.

Paragraphs 129 (a), (b), (c) and (d):

Omit the paragraphs.

PART II

Section 87 (definitions of “the Promotions Appeal Board” and “the Tenure and Disciplinary Appeal Board”):

Omit the definitions.

Heading to Division 2 of Part VIII:

Omit “*and Examinations*”.

Sections 90, 92, 93, 94, 95 and 96:

Repeal the sections.

Divisions 3, 4, 5 and 5A of Part VIII:

Repeal the Divisions.

NOTE

1. No. 5, 1959, as amended. For previous amendments, see No. 75, 1961; No. 3, 1962; No. 57, 1963; No. 132, 1965; Nos. 58 and 93, 1966; No. 144, 1968; Nos. 18, 117 and 216, 1973; No. 81, 1974; No. 37, 1976; Nos. 36 and 77, 1978; No. 177, 1980; No. 29, 1981; No. 92, 1983; Nos. 63 and 76, 1984; and No. 194, 1985.

[*Minister's second reading speech made in—
House of Representatives on 3 November 1987
Senate on 25 November 1987*]