



# **Commonwealth Bank Sale Act 1995**

## **Act No. 161 of 1995 as amended**

This compilation was prepared on 3 August 2006  
taking into account amendments up to Act No. 146 of 1999

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

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# **An Act to facilitate the sale of the Commonwealth's shares in the Commonwealth Bank, and for related purposes**

## **Part 1—Preliminary**

### **1 Short title** [see Note 1]

This Act may be cited as the *Commonwealth Bank Sale Act 1995*.

### **2 Commencement** [see Note 1]

- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) Part 3, and all the items of the Schedule (except items 1, 12, 16, 17, 21, 22, 23, 26, 27, 31, 37 and 48), commence at the transfer time.
- (3) Item 12 of the Schedule commences on a date to be fixed by Proclamation.
- (4) Item 22 of the Schedule commences on the first anniversary of the day on which the transfer time occurs.
- (5) Item 37 of the Schedule commences at the transfer time or at the beginning of 9 May 1996, whichever is later.
- (6) Items 1 and 48 of the Schedule commence on the 10th anniversary of the day on which the transfer time occurs.

### **3 Interpretation**

In this Act, unless the contrary intention appears:

**Bank body** means:

- (a) the Commonwealth Bank, the Commonwealth Development Bank of Australia Limited or the Commonwealth Bank Officers Superannuation Corporation; or
- (b) a body corporate that is a subsidiary (as defined in Division 6 of Part 1.2 of the Corporations Law) of the Commonwealth Bank.

***Commonwealth Bank*** means the Commonwealth Bank of Australia.

***transfer time*** means the time when the Commonwealth ceases to have the status of being the holder of shares in the Commonwealth Bank that carry more than 50% of the total voting rights attached to the voting shares in the Commonwealth Bank.

## **Part 2—Amendments**

### **4 Schedule**

The Acts specified in the Schedule are amended as set out in the Schedule.

Note: Section 2 deals with the commencement of the individual items in the Schedule.

## **Part 3—Transitional and saving**

### **Division 1—*Safety, Rehabilitation and Compensation Act 1988***

#### **5 Interpretation**

(1) Unless the contrary intention appears, expressions used in this Division that are also used in the SRC Act have the same respective meanings as in that Act.

(2) In this Division:

*SRC Act* means the *Safety, Rehabilitation and Compensation Act 1988*.

#### **6 SRC Act continues to apply to Commonwealth Bank etc. for certain purposes**

If a Bank body ceases to be a Commonwealth authority for the purposes of the SRC Act at the transfer time, the SRC Act continues to apply in relation to the Bank body to the extent, and in the manner, set out in sections 7 to 11 of this Act.

#### **7 SRC Act continues to apply for previous injuries etc.**

(1) The SRC Act continues to apply after the transfer time in relation to:

(a) injuries suffered by employees of the Bank body before the transfer time; and

(b) loss of, or damage to, property incurred by employees of the Bank body before the transfer time;

including employees who have stopped being employees of the Bank body before the transfer time.

(2) For the purposes of subsection (1), the SRC Act continues to apply as if:

(a) the Bank body continued to be a Commonwealth authority; and

- (b) the chief executive officer (however described) of the Bank body continued to be the principal officer of a Commonwealth authority.

## **8 Payment of premiums**

- (1) After the transfer time, Division 4A of Part VII of the SRC Act applies to the Bank body as if:
  - (a) the Bank body continued to be a Commonwealth authority; and
  - (b) the Bank body were not required to pay a premium under that Division in respect of the part of a financial year that occurs after the transfer time; and
  - (c) the following word and paragraph were added at the end of subsection 96H(1) of the SRC Act:
    - “; or (f) in the case of an authority—the authority is not required to pay a premium under this Division in respect of part of a financial year.”.
- (2) If an amount of premium payable by the Bank body in respect of a period before the transfer time remains unpaid, the amount is a debt due to the Commonwealth by the Bank body and is payable to Comcare.

## **9 Part VIIIA of the SRC Act**

Part VIIIA of the SRC Act continues to apply to the Bank body after the transfer time as if any licence granted to the Bank body under that Part were revoked at the transfer time.

## **10 Refund of licence fee**

- (1) If the Bank body has paid a licence fee under section 107R of the SRC Act in respect of the licence fee year in which the transfer time occurs, then the Bank body is entitled to be paid a refund of the amount worked out using the following formula:

$$\text{Licence fee} \times \frac{\text{Number of refund days}}{365}$$

where:

*Number of refund days* means the total number of days in the period beginning at the transfer time and ending on the last day of the licence fee year in which the transfer time occurs.

(2) In this section:

*licence fee year* means the year beginning on the date of commencement of a licence granted under section 107J of the SRC Act and ending on the day before the anniversary of that date.

### **11 Amendment of declarations**

- (1) If a notice was published in the *Gazette* before the transfer time declaring the Bank body to be a body corporate to which the SRC Act applies for the purposes of the definition of *Commonwealth authority* in subsection 4(1) of the SRC Act, then the notice has effect after the transfer time as if it did not contain a reference to the Bank body.
- (2) Subsection (1) does not, by implication, prevent the amendment or revocation of the notice.

### **12 Section 128A of the SRC Act**

Section 128A of the SRC Act continues to apply to the Commonwealth Bank after the transfer time as if the Commonwealth Bank continued to be a prescribed Commonwealth authority for the purposes of that section.

### **13 Notification of amount of salary etc.**

- (1) This section applies to a Bank body that was a Commonwealth authority for the purposes of the SRC Act immediately before the transfer time.
- (2) The chief executive officer (however described) of the Bank body must notify the Commission, within 28 days after the transfer time, of the amount of salary, wages or pay paid to employees of the Bank body in the period starting on 1 July in the financial year in which the transfer time occurred and ending at the transfer time.



## **Division 2—*Defence Force Retirement and Death Benefits Act 1973***

### **14 Interpretation**

In this Division:

*DFRDB Act* means the *Defence Force Retirement and Death Benefits Act 1973*.

### **15 Deferred benefits**

- (1) This section applies if, immediately before the transfer time, an employee of a Bank body was a person to whom deferred benefits were applicable under section 78 of the DFRDB Act.
- (2) For the purposes of Division 3 of Part IX of the DFRDB Act, the employee is taken to continue in public employment, after the transfer time, so long as the employee continues to be employed by a Bank body.
- (3) This section is subject to Division 3 of Part IX of the DFRDB Act.

### **16 Periods of eligible employment**

If, immediately before the transfer time, a particular period of employment of a person by a Bank body was a period of eligible employment for the purposes of Division 3 of Part IX of the DFRDB Act, that period of employment continues to be a period of eligible employment for the purposes of that Division.

## **Division 3—Miscellaneous**

### **17 Saving previous operation of section 109 of the Commonwealth Banks Act**

The repeal of section 109 of the *Commonwealth Banks Act 1959* does not affect:

- (a) the vesting of property in the Commonwealth Bank under that section before the repeal; or
- (b) the incurring of liabilities by the Commonwealth Bank under that section before the repeal.

### **18 Application of bad debt provisions of the Income Tax Assessment Act**

- (1) In applying Subdivision 165-C or 166-C of the *Income Tax Assessment Act 1997* to decide whether a Bank body can deduct an amount for a bad debt in the year of income in which the completion time occurred, or in a later year of income, it must be assumed that the persons who beneficially owned the shares in the Commonwealth Bank immediately after the completion time were also the beneficial owners of the shares at all times before the completion time.
- (2) In this section:

*completion time* means the time when the Commonwealth ceases to be a shareholder in the Commonwealth Bank.

### **19 Regulations**

- (1) The Governor-General may make regulations prescribing matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, regulations may be made in relation to matters of a transitional or saving nature arising out of the sale of the Commonwealth's shares in the Commonwealth Bank, or otherwise arising out of the enactment of this Act.

Section 19

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- (3) Subsection 48(2) of the *Acts Interpretation Act 1901* does not apply to regulations that are made under this section and take effect at or after the transfer time.

## **Part 4—Exemption from certain taxes**

### **20 Exemption from certain State and Territory taxes**

- (1) No tax is payable under a law of a State or Territory in respect of an exempt matter or anything connected with an exempt matter.
- (2) An authorised person may, by signed writing, certify that:
  - (a) a specified matter or thing is an exempt matter; or
  - (b) a specified thing was done in connection with a specified exempt matter.
- (3) For all purposes and in all proceedings, a certificate under subsection (2) is evidence of the matter stated in the certificate.
- (4) A document that appears to be a certificate under subsection (2) is taken to be such a certificate and to have been properly given unless the contrary is established.
- (5) In this section:

***authorised person*** means:

- (a) the Minister; or
- (b) the Secretary to the Department; or
- (c) a person who:
  - (i) is an SES employee, or acting SES employee, in the Department; and
  - (ii) is authorised in writing by the Secretary to the Department for the purposes of this section.

***exempt matter*** means any of the following:

- (a) the sale by the Commonwealth of any of its shares in the Commonwealth Bank (other than a sale of those shares to the Commonwealth Bank);
- (b) an agreement relating to a sale that is covered by paragraph (a);
- (c) the transfer of any of the Commonwealth's shares in the Commonwealth Bank to a person other than the Commonwealth Bank;

- (d) the receipt of money by the Commonwealth in respect of a sale that is covered by paragraph (a).

**tax** means stamp duty, or any other tax, fee, duty, levy or charge, but does not include:

- (a) a fee payable under the Corporations Law of a State or Territory; or
- (b) a tax, fee, duty, levy or charge specified in a notice signed by the Minister and published in the *Gazette*.

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## Schedule—Amendment of Acts

## Section 4

**Note:**

The amendments made by this Schedule are incorporated in the compilations on ComLaw.

*Administrative Decisions (Judicial Review) Act 1977*

*Australian Bicentennial Authority Act 1980*

*Banking Act 1959*

*Banks (Shareholdings) Act 1972*

*Commonwealth Banks Act 1959*

*Crimes (Currency) Act 1981*

*Defence (Re-establishment) Act 1965*

*Freedom of Information Act 1982*

*National Crime Authority Act 1984*

*Northern Territory (Lessees' Loan Guarantees) Act 1954*

*Occupational Health and Safety (Commonwealth Employment) Act 1991*

*Papua New Guinea (Transfer of Banking Business) Act 1973*

*Reserve Bank Act 1959*

*Superannuation Industry (Supervision) Act 1993*

For access to the wording of the amendments made by this Schedule, see Act No. 161, 1995.

**Table of Acts****Notes to the *Commonwealth Bank Sale Act 1995*****Note 1**

The *Commonwealth Bank Sale Act 1995* as shown in this compilation comprises Act No. 161 of 1995 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving or transitional provisions *see* Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Commonwealth Bank Sale Act 1995</i>	161, 1995	16 Dec 1995	Ss. 5–19 and Schedule (items 2–11, 13–15, 18–20, 24, 25, 28–30, 32–47, 49–59): 19 July 1996 Schedule (item 12): 22 Nov 1996 ( <i>see Gazette</i> 1996 No. S442) Schedule (item 22): 19 July 1997 Schedule (items 1, 48): 19 July 2006 Remainder: Royal Assent	
<i>Tax Law Improvement Act (No. 1) 1998</i>	46, 1998	22 June 1998	Schedule 3 (item 21): (a)	S. 4
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (item 300): 5 Dec 1999 ( <i>see Gazette</i> 1999, No. S584): (b)	—

**Act Notes**

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- (a) The *Commonwealth Bank Sale Act 1995* was amended by Schedule 3 (item 21) only of the *Tax Law Improvement Act (No. 1) 1998*, subsections 2(1)–(3) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
  - (2) Schedule 2 (except item 3 of it) commences immediately after the commencement of Schedule 1.
  - (3) Schedule 3 commences immediately after the commencement of Schedule 2 (except item 4 of it).
- Schedule 1 commenced on 22 June 1998.
- (b) The *Commonwealth Bank Sale Act 1995* was amended by Schedule 1 (item 300) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
  - (2) Subject to this section, this Act commences at the commencing time.



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**Table of Amendments**

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**Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

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Provision affected	How affected
Heading to s. 18.....	am. No. 46, 1998
S. 18.....	am. No. 46, 1998
S. 20.....	am. No. 146, 1999

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**Table A**

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**Application, saving or transitional provisions**

*Tax Law Improvement Act (No. 1) 1998* (No. 46, 1998)

**4 Application of amendments**

An amendment made by an item in a Schedule (except an item in Schedule 1 or in Part 1 of any of Schedules 2 to 8) applies to assessments for the 1998-99 income year and later income years, unless otherwise indicated in the Schedule in which the item appears.