



# Commonwealth Banks Amendment Act 1993

No. 46 of 1993

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

[Assented to 22 October 1993]

The Parliament of Australia enacts:

## **PART 1—PRELIMINARY**

### **Short title etc.**

1.(1) This Act may be cited as the *Commonwealth Banks Amendment Act 1993*.

(2) In this Act, “**Principal Act**” means the *Commonwealth Banks Act 1959*<sup>1</sup>.

### **Commencement**

2. This Act commences on the day on which it receives the Royal Assent.

**PART 2—REDUCTION OF SHAREHOLDING OF  
COMMONWEALTH GOVERNMENT FROM 70% TO 50.1%**

**Object of Part**

3. The object of this Part is to allow the Commonwealth Government to reduce its shareholding in the Commonwealth Bank from 70% to 50.1%.

**Commonwealth to retain ownership and control of the  
Commonwealth Bank**

4. Section 27L of the Principal Act is amended by:

- (a) by adding at the end of subsection (1) “if the transfer results in a breach of subsection (2)”;
- (b) by omitting from paragraphs (2)(a) and (b) “70%” and substituting “50.1%”.

**Transitional—exemption from stamp duty etc.—transfers by the  
Commonwealth of its shares in the Commonwealth Bank**

5.(1) In this section:

“**exempt matter**” means:

- (a) the transfer by the Commonwealth of any of its shares in the Commonwealth Bank, if the transfer is authorised by the amendments made by this Part; or
- (b) an agreement relating to such a transfer; or
- (c) the receipt of money by the Commonwealth, or by a person acting on behalf of the Commonwealth, in respect of such a transfer.

(2) Stamp duty or other tax is not payable under a law of a State or Territory in respect of:

- (a) an exempt matter; or
- (b) anything done (including a transaction entered into or an instrument or document made, executed, lodged or given) because of, or for a purpose connected with or arising out of, an exempt matter.

**PART 3—AMENDMENT OF THE CHARTER OF THE  
COMMONWEALTH DEVELOPMENT BANK**

**Object of Part**

6. The object of this Part is to broaden the charter of the Commonwealth Development Bank by enabling it to provide finance in cases where some, but not all, of the finance would otherwise be available from other sources.

**Functions of Development Bank**

7. Section 72 of the Principal Act is amended by omitting from paragraph (a) all the words after “the opinion of the” and substituting the following words and subparagraphs:

“Development Bank:

- (i) the provision of finance is desirable; and
- (ii) either:
  - (A) no part of the finance would otherwise be available on reasonable and suitable terms and conditions; or
  - (B) some, but not all, of the finance would otherwise be available on reasonable and suitable terms and conditions;”.

#### **PART 4—AMENDMENTS RELATING TO A CAPITAL INJECTION TO THE COMMONWEALTH DEVELOPMENT BANK**

##### **Object of Part**

8. The object of this Part is to allow the Commonwealth Government to make a capital injection to the Commonwealth Development Bank.

##### **Share capital**

9. Section 74A of the Principal Act is amended:

(a) by inserting after subsection (10) the following subsection:

“(10A) The Treasurer may direct the Development Bank to issue to the Commonwealth a specified number of shares in the capital in the Development Bank. If the Treasurer so directs and the Commonwealth pays to the Development Bank, as subscription money in respect of the shares, an amount agreed between the Treasurer and the Board:

- (a) the shares are taken to have been issued by the Development Bank to the Commonwealth; and
  - (b) the Commonwealth holds the shares as legal and beneficial owner.”;
- (b) by inserting in subsection (12) “or the Commonwealth” after “Commonwealth Bank”.

##### **Profits of Development Bank**

10. Section 77A of the Principal Act is amended:

- (a) by omitting from paragraph (1)(a) “the Commonwealth Bank” and substituting “a shareholder in the Development Bank”;
- (b) by adding at the end the following subsection:

“(3) In exercising its powers under this section in relation to the payment of dividends, the Board must ensure that the ratio of dividends paid to nominal value of shares held is the same for each shareholder in the Development Bank.”.

**PART 5—AMENDMENT RELATING TO THE SUBSIDISATION  
OF THE COMMONWEALTH DEVELOPMENT BANK BY THE  
COMMONWEALTH GOVERNMENT**

**Object of Part**

**11.** The object of this Part is to authorise the making of grants of financial assistance to the Commonwealth Development Bank by the Commonwealth Government.

**Insertion of new section**

**12.** After section 85 of the Principal Act the following section is inserted:

**Grant of financial assistance by Treasurer**

“85A.(1) The Treasurer may, by writing, determine that the Development Bank is entitled to be paid a specified amount by the Commonwealth by way of a grant of financial assistance.

“(2) The grant may be unconditional or subject to such terms and conditions as are specified in the determination.

“(3) The Treasurer must not make a determination under this section unless the Treasurer and the Board agree about:

- (a) the amount of the grant; and
- (b) the terms and conditions (if any) to which the grant is subject.

“(4) A grant under this section is to be made out of money appropriated by the Parliament for the purpose.”.

**PART 6—AMENDMENTS RELATING TO SHARES IN THE  
COMMONWEALTH BANK HELD BY DEPOSITARIES UNDER  
AMERICAN DEPOSITARY RECEIPTS SCHEMES**

**Object of Part**

**13.** The object of this Part is to allow shares in the Commonwealth Bank to be held by a banking entity that is a depositary under an American Depositary Receipts scheme.

**Limitation of shareholdings in Commonwealth Bank**

**14.** Section 10A of the *Banks (Shareholdings) Act 1972* is amended:

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

“(2A) Subject to the regulations, the reference in subsection (1) to an interest in a voting share does not include a reference to an interest that a banking entity has only because the banking entity is a depositary under a scheme known as an American Depositary Receipts scheme.”;

- (b) by adding at the end of paragraph (3)(b) “or (2A)”.

*Commonwealth Banks Amendment No. 46, 1993*

**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. 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; No. 210, 1991; and No. 193, 1992.

*[Minister's second reading speech made in—  
House of Representatives on 18 August 1993  
Senate on 27 September 1993]*