

# COMMONWEALTH POSTAL SAVINGS BANK ACT 2021

No of 2021

A Bill for an Act to establish a new, government-owned savings bank for the deposit of savings and to make Post Office retail outlets, agencies and franchises available for that purpose and to give Commonwealth security to depositors for repayment of all moneys so deposited with the bank, and for related purposes.

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**PART I - PRELIMINARY**

The Parliament of Australia enacts:

**1. Short title**

This Act may be cited as the **Commonwealth Postal Savings Bank Act 2021**

## 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	The day after the day on which the Consolidated Revenue Fund is appropriated under an Act to the Department in which this Act is administered for payment for the purposes of this Act.	

Note: This table relates only to the provisions of this Act as originally enacted.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 establish a new, government-owned savings bank for the deposit of savings;
- (b) to support and encourage the expansion of access to affordable banking, including the provision of short- and long-term loans and better banking services to communities which have been deprived of private banking branches and facilities;
- (c) to provide access to a government-owned savings bank which is highly accessible, with a large nationwide footprint and extended daily opening hours;
- (d) to provide easily accessible service locations, especially at Australian Post Offices, to make it possible for all Australians to access physical banking locations;
- (e) to make the Post Office branches, agencies and franchises available for that purpose;
- (f) to provide Commonwealth security to depositors for repayment of all moneys so deposited with the Bank;
- (g) to provide affordable, transparent, trustworthy banking services, including bank accounts and real-time payment systems and easily accessible service locations, including Australia's Post Offices;
- (h) to create a government-owned savings bank to provide all financial products and services, ensuring that the customer's access to the products and the public interest is given significant consideration;
- (i) to encourage Australians to save money and have access to banking services;
- (j) to provide easily accessible savings products to all strata of the population;
- (k) to give small investors a ready means of saving;
- (l) to provide funds to facilitate efficient, long-term financing of infrastructure projects, business and economic growth, vital aspects of the economy and new job creation in

- Australia by the investment of the Bank's funds with Government-owned institutions which have access to or control of such projects;
- (m) to provide such other basic financial services as the Bank determines appropriate in the public interest;

#### 4. Definitions

- 4.1 In this Act, unless the contrary intention appears:

**Bank** means the Commonwealth Postal Savings Bank established by this Act.

**Australia** includes the Territories.

**Australia Post** means the Australian Postal Corporation.

**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.

**Board** means the Commonwealth Postal Savings Bank Board.

**chief executive officer** and **CEO** mean the individual serving as the executive director of the Bank.

**Commonwealth** means the Federal Commonwealth of Australia.

**officer** or **officer of the Bank** means an officer of the Commonwealth Postal Savings Bank.

**Parliament** means the Parliament of the Commonwealth.

**Savings Bank business** means the receipt of Savings Bank deposits, re-payment of such deposits, investment of deposits and all business incidental thereto;

**Savings Bank Branch** and **Branch** mean an Office at which Savings Bank business is transacted, and at which ledger accounts of depositors are kept;

**Savings Bank Agency** and **Agency** mean an Office at which Savings Bank deposits are received and re-paid or received only, but at which ledger accounts of depositors are not kept;

#### 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.

### PART II - CREATION OF THE BANK

#### 6. Commonwealth Postal Savings Bank

- 6.1 A Commonwealth bank, to be called the Commonwealth Postal Savings 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 a savings bank;
- (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 borrow money;
  - (h) to do anything incidental to any of its powers.
- 6.4 The Treasurer may, from time to time, out of moneys authorised by the Parliament, advance 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.
- 6.5 The Treasurer may from time to time cause advances to be made to the Bank as and when allocations may be made from Consolidated Revenue. Any such advances may be made on terms to be agreed upon between the Treasurer and the Bank.
- 6.6 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.
- 6.11 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.
- 6.12 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.
- 6.13 The Bank is authorised to carry on a savings bank business in Australia in accordance with the provisions of this Act and shall not be the subject to regulation, authority, direction or control by the Australian Prudential Regulation Authority or the Australian Securities & Investments Commission other than as may be provided for in this Act.
- 6.14 The Bank 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.

## **7. General Function of the Commonwealth Postal Savings Bank**

- 7.1 It shall be the function and duty of the Commonwealth Postal Savings Bank, within the limits of its powers, to:
- 7.1.1 support and encourage the expansion of access to affordable banking, including the provision of short and long-term loans and better banking services to communities which have been deprived of private banking branches and facilities;

- 7.1.2 to provide a government-owned savings bank which is highly accessible to all Australians, with a large nationwide footprint and extended daily opening hours;
- 7.1.3 to provide easily accessible service locations, especially at Australian Post Offices to make it possible for all Australians to access physical banking locations;
- 7.1.4 to make the Post Office branches, agencies and franchises available for those purposes;
- 7.1.5 to provide affordable, transparent, trustworthy banking services, including bank accounts and real-time payment systems and easily accessible service locations, including Australia's Post Offices;
- 7.1.6 to provide all financial products and services appropriate to a savings bank business, ensuring that the customer's access to the products and the public interest is given significant consideration;
- 7.1.7 to encourage Australians to save money and have access to banking services;
- 7.1.8 to provide easily accessible savings products to all strata of the population;
- 7.1.9 to give small investors a ready means of saving;
- 7.1.10 to provide such other basic financial services as the Bank determines appropriate in the public interest;

## 8. Constitutional limits

The Bank may perform its functions:

- (a) for purposes relating to trade or commerce:
  - (i) between Australia and places outside Australia; or
  - (ii) among the States; or
  - (iii) within a Territory, between a State and a Territory or between two Territories; or
- (b) for purposes relating to banking (other than State banking) to which paragraph 51(xiii) of the Constitution applies; or
- (c) for purposes relating to a corporation to which paragraph 51(xx) of the Constitution applies; or
- (d) for purposes related to external affairs, including:
  - (i) giving effect to an international agreement to which Australia is a party; or
  - (ii) addressing matters of international concern; or
  - (iii) by way of the performance of its functions in a place outside Australia; or
- (e) by way of the use of a postal, telegraphic, telephonic or other like service within the meaning of paragraph 51(v) of the Constitution; or
- (f) by way of the provision of service, or financial assistance, to:
  - (i) the Commonwealth; or
  - (ii) an authority of the Commonwealth;
  - (iii) for a purpose of the Commonwealth; or
- (g) for purposes relating to a Territory; or
- (h) with respect to a Commonwealth place (within the meaning of the *Commonwealth Places (Application of Laws) Act 1970*); or
- (I) for purposes relating to the relations of the Commonwealth with the islands of the Pacific; or

- (j) for purposes relating to the implied power of the Parliament to make laws with respect to nationhood; or
- (k) for purposes relating to the executive power of the Commonwealth; or
- (l) for purposes relating to matters incidental to the execution of any of the legislative powers of the Parliament or the executive power of the Commonwealth.

## **9. Bank's powers**

- 9.1 The Bank has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.
- 9.2 The powers of the Bank may be exercised within or outside Australia.
- 9.3 For the purpose of carrying out its functions under this Act, the Bank is empowered to carry on the business of a savings bank.
- 9.4 Without limiting the generality of the last preceding sub-section, the Bank has power, in addition to any other powers conferred on it by this Act-
  - 9.4.1 to receive money on deposit;
  - 9.4.2 to borrow money;
  - 9.4.3 to lend money;
  - 9.4.4 to buy, sell, discount and re-discount bills of exchange, promissory notes and treasury bills;
  - 9.4.5 to buy and sell securities issued by the Commonwealth and other securities;
  - 9.4.6 to establish credits and give guarantees;
  - 9.4.7 to issue bills and drafts and effect transfers of money;
  - 9.4.8 to underwrite loans and issues of capital; and
  - 9.4.9 to do anything incidental to any of its powers.

## **10. Establishment of Commonwealth Postal Savings Bank Board**

- 10.1 There shall be a Commonwealth Postal Savings Bank Board, which shall be constituted as provided by Part III.

## **11. Functions of Commonwealth Postal Savings Bank Board**

- 11.1 Subject to this Act, the Board has power to determine the policy of the Bank in relation to any matter, and to control the affairs of the Bank.
- 11.2 It is the duty of the Board, within the limits of its powers, to ensure that the policy of the Bank is directed to the greatest advantage of the people of Australia.

## **12. Establishment of Executive Committee**

- 12.1 There shall be an Executive Committee of the Bank which shall be constituted as provided by Part III.
- 12.2 It is the duty of the Executive Committee for a bank to take such action as is necessary to ensure that effect is given by the Bank to the policy of the Bank as determined under this Part and to any directions given by the Board in relation to the affairs of the Bank.

## **13. Management of the Bank**

- 13.1 There shall be a Managing Director and a Deputy Managing Director of the Bank, who shall be appointed and hold office as provided by Part III.
- 13.2 Subject to this Act, the Bank shall be managed by the Managing Director.
- 13.3 The Deputy Managing Director shall perform such duties as the Managing Director directs and, in the event of a vacancy in the office of Managing Director, the Deputy Managing Director shall perform the duties of the Managing Director and shall have and may exercise the powers and functions of the Managing Director.

#### **14. Managing Director and Secretary to Treasury shall establish a close liaison**

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

#### **15. Investment of funds**

- 15.1 The Bank may invest any moneys held by it:
- (a) in any Government security approved by the Treasurer;
  - (b) on loan on the security of land;
  - (c) in advancing money for the purchase or erection of residential dwelling houses, and for the discharge of mortgages on dwelling houses;
  - (d) in advancing money for the erection of warehouses or storage facilities intended for the warehousing or storage of primary products, including the erection of plant for treatment to ensure their preservation and preparation for marketing;
  - (e) in debentures issued by any Commonwealth government-owned institution;
  - (f) on fixed deposit with any Commonwealth government-owned bank or financial institution;
  - (g) 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.
  - (h) 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 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.
  - (i) in any other prescribed manner;
- and may also, from time to time, vary any such investment.



- 15.2 For the purposes of paragraph (d) of the last preceding subsection ‘**primary products**’ means wool, grain, butter, cheese, meat, fish, fresh, preserved or dried fruits, hops, cotton, sugar, and such other produce as is prescribed.

## **16. Bank guaranteed by the Commonwealth**

- 16.1 The Commonwealth shall be responsible for the payment of all moneys due by the Bank but nothing in this section shall authorize 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 POSTAL SAVINGS BANK**

### **Division I. The Board**

#### **17. Membership of the Board**

- 17.1 The Board shall be appointed by the Treasurer and shall consist of:
- (a) the Managing Director;
  - (b) the Deputy Managing Director;
  - (c) the Secretary to the Department of the Treasury; and
  - (d) four other members, who shall be appointed by the Treasurer in accordance with this section.
- 17.2 A member of the Board appointed under paragraph (d) of the last preceding subsection:
- (a) shall have at least 10 years of banking or commerce experience;
  - (b) shall, subject to this section, be appointed for a period of five years but is eligible for re-appointment; and
  - (c) holds office subject to good behaviour.
- 17.3 Of the members of the Board who are first appointed under paragraph (d) of sub-section 17.1 of this section, two shall be appointed for a period of two years, one for a period of three years, and one for a period of five years.
- 17.4 In the event of a member of the Board appointed under paragraph (d) of sub-section 17.1 of this section ceasing to hold office before the termination of his period of office, the period of appointment of a person appointed in his place shall be the remainder of the period of office of the member so ceasing to hold office.
- 17.5 A member of the Board shall be paid by the Bank such remuneration as the Board determines.

#### **18. Declaration by Members**

- 18.1 A member of the Board shall, before entering upon his duties or exercising any power under this Act, make, 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 a declaration of secrecy in accordance with the prescribed form.
- 18.2 A member of the Board shall within 21 days of appointment to the Board provide to the Board a statement of the member’s registrable interests.

- 18.3 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.
- 18.4 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 18.2.

## **19. Disqualification of membership**

- 19.1 A person who is:
- (a) a member of the Reserve Bank Board;
  - (b) the Governor, the Deputy Governor or an officer or employee of the Reserve Bank;
  - (c) an officer or employee of the Bank (other than the Managing Director or the Deputy Managing Director);
  - (d) an officer of the Public Service of the Commonwealth (other than the Secretary to the Department of the Treasury); or
  - (f) a director, officer or employee of a corporation the business of which is wholly or mainly that of banking, unless such corporation shall be solely owned by the Commonwealth;
- is not capable of appointment, or of continuing to act, as a member of the Board.

## **20. Vacation of Office**

- 20.1 If a member of the Board appointed under paragraph (d) of sub-section 17.1 of section seventeen of this Act:
- (a) becomes permanently incapable of performing his duties;
  - (b) becomes bankrupt, 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;
  - (c) resigns his office by writing under his hand addressed to the Board;
  - (d) is absent, except on leave granted by the Treasurer, from all meetings of the Board held during two consecutive months or during any three months in any period of twelve months; or
  - (e) fails to comply with his obligations under this Act,
- the Treasurer shall terminate his appointment.

## **21. Chairman and Deputy Chairman of the Board**

- 21.1 The Treasurer shall appoint one of the members of the Board appointed under paragraph (d) of subsection 17.1 of section seventeen of this Act to be Chairman of the Board, and another such member to be Deputy Chairman of the Board, for such period as the Treasurer determines.

- 21.2 The Chairman or the Deputy Chairman of the Board holds office as Chairman or Deputy Chairman until the expiration of the period of his appointment or until he ceases to be a member of the Board, whichever first happens.
- 21.3 The Chairman or the Deputy Chairman of the Board may resign his office as Chairman or Deputy Chairman by writing under his hand addressed to the Treasurer.

## **22. Meetings of the Board**

- 22.1 The Board shall meet at such times and places as Board determines or as the Chairman or the Deputy Chairman directs.
- 22.2 The Chairman shall preside at all meetings of the Board at which he is present and, in the absence of the Chairman, the Deputy Chairman shall preside.
- 22.3 Five members, of whom the Chairman or the Deputy Chairman shall be one, form a quorum at a meeting of the Board.
- 22.4 Questions arising at a meeting of the Board shall be decided by a majority of the votes of the members present and voting.
- 22.5 The member presiding at a meeting of the Board shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.
- 22.6 No member of the Board 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.
- 22.7 The Board shall meet at least once in each month.

## **Division 2.- The Executive Committee**

### **23. Establishment of Executive Committee**

- 23.1 The Board shall establish an Executive Committee consisting of five members, headed by the chief executive officer of the Bank.

### **24. Chief Executive Officer**

- 24.2 A majority of the Executive Committee shall have the authority to appoint and reappoint the chief executive officer with such executive functions, powers, and duties as may be prescribed by this Act, the by-laws of the Bank, or the Board.
- 24.3 The CEO shall have responsibility for the development and implementation of the strategy of Bank, including:
- 24.3.1 the development and submission to the Executive Committee of the annual business plans and budget;
- 24.3.2 the development and submission to the Executive Committee of a long-term strategic development plan that is consistent with the functions of the bank and its Divisions; and

24.3.3 the development, revision, and submission to the Executive Committee of the Bank's other internal policies.

## **25. Other Executive Officers**

25.1 The Board shall appoint, remove, fix the compensation, and define duties of the other 4 executive officers to serve on the Executive Committee.

25.2 The CEO, and all other executive officers, and all loan origination officers, shall have extensive experience and expertise in retail banking, public finance or commerce.

## **26. Executive Committee Duties**

26.1 In order to carry out the functions of the Bank as set forth in this Act, the Executive Committee shall:

26.1.1 establish and submit to the Board disclosure and application procedures for entities nominating projects for assistance under this Act;

26.1.2 establish and submit to the Board standardized terms and conditions, fee schedules, or legal requirements of a contract or program to carry out this Act;

26.1.3 establish and submit to the Board guidelines for the selection and approval of agencies and establishment of branches, subject to the general criteria provided in this Act; and

26.1.4 provide recommendations to the Board and place proposals accepted by the Executive Committee for arrangements with agencies and establishment of branches.

## **27. Vacancies**

27.1 A vacancy in the position of CEO and other executive officers of the Executive Committee shall be filled in the manner in which the original appointment was made.

## **28. Remuneration**

28.1 The remuneration compensation of the CEO and other executive officers of the Executive Committee shall be determined by the Board.

## **29. Removal**

29.1 The CEO and other executive officers of the Executive Committee may be removed at the discretion of the Board.

## **30. Term**

30.1 The CEO and other executive officers of the Executive Committee shall serve a 6-year term and may be reappointed in accordance with this Division.

## **31. Limitations**

31.1 The CEO and other executive officers of the Executive Committee shall not:

31.1.1 hold any other public office;

31.1.2 have any interest in an infrastructure project considered by the Bank;

- 31.1.3 have any interest in an investment or financial institution or commercial bank;  
or
- 31.1.4 have any such interest during the 2-year period beginning on the date such officer ceases to serve in such capacity;

unless the Board is satisfied that special circumstances exist such that the appointment of such an Officer is in the best interests of the Bank and its customers.

## **PART IV - MISCELLANEOUS PROVISIONS RELATING TO THE COMMONWEALTH POSTAL SAVINGS BANK**

### **32. Head Office**

- 32.1 The head office of the Commonwealth Postal Savings Bank shall be at Sydney in the State of New South Wales.

### **33. Branches**

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

### **34. Agents**

- 34.1 The Bank may arrange with any person to act as agent of the Bank in any place whether within or beyond Australia.
- 34.2 The Bank may act as the agent of any bank carrying on business within or beyond Australia.
- 34.3 The Bank may appoint Australia Post, its retail outlets, agencies, sub-agencies and Licensed Post Offices as its agents for carrying out any or all of its powers and duties under this Act and Australia Post, its retail outlets, agencies, sub-agencies and Licensed Post Offices shall act in accordance with any such appointment.
- 34.4 The Bank shall reimburse Australia Post, its retail outlets, agencies, sub-agencies and Licensed Post Offices such amount or amounts as the Bank and Australia Post shall agree on account of the cost of services rendered under arrangements made in accordance with this section, and the amount of such payment shall be subject to review at the end of each agreed period. Any such agreement as to an amount or amounts shall take into consideration the amounts and matters as referred to in Subsections 34.7.1, 34.7.2 and 34.7.3.
- 34.5 In the event of any difference of opinion between the Bank and Australia Post, its retail outlets, agencies, sub-agencies and Licensed Post Offices as to the payment to be made under this section, the issue shall be submitted for determination by the Treasurer of the Commonwealth, and his decision shall be binding on all parties.
- 34.6 In the event of a referral to the Treasurer as provided for in the preceding subsection, the Bank and Australia Post shall provide written submissions to the Treasurer as to their respective positions and proposals.
- 34.7 Any decision which may be made by the Treasurer pursuant to this section shall take into consideration:

- 34.7.1 the actual costs incurred by Australia Post, its retail outlets, agencies, sub-agencies and Licensed Post Offices in providing the services and facilities associated with the appointment including a reasonable return thereon; and
  - 34.7.2 the effect on the business of Australia Post, its retail outlets, agencies, sub-agencies and Licensed Post Offices in providing the additional services and facilities associated with the appointment; and
  - 34.7.3 any financial loss which Australia Post, its retail outlets, agencies, sub-agencies and Licensed Post Offices may incur as a consequence of their loss of any other agencies or arrangements which they may already have undertaken or have negotiated.
- 34.8 Australia Post shall pay to each of its retail outlets, agencies, sub-agencies and Licensed Post Offices from any amounts paid to Australia Post pursuant to this Section 34:
- 34.8.1 such amounts as may be agreed pursuant to Section 34.4; or
  - 34.8.2 an amount or amounts not less than the retail costs of the retail outlets, agencies, sub-agencies and Licensed Post Offices of Australia Post as shall be determined in any determination made pursuant to Section 34.5.
  - 34.8.3 For the purpose of this clause 34.8, retail costs shall mean the amounts of the costs and losses incurred by the retail outlets, agencies, sub-agencies and Licensed Post Offices of Australia Post for the matters for consideration as itemised in Section 34.7.

### **35. Appointment of Attorneys**

- 35.1 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 authorized by the instrument to do or execute.

### **36. Provision of reports, records and information to the Bank**

- 36.1 In order to enable the Bank to carry out the provisions of this Act all Commonwealth Departments and institutions are hereby authorized, 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.

### **37. Commonwealth Postal Savings Bank Service**

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

- 37.2 The officers appointed under this section shall constitute the Commonwealth Postal Savings Bank Service.
- 37.3 Subject to this section and to the regulations, officers hold office on such terms and conditions as the Bank determines.

### **38. Temporary and casual employees**

- 38.1 The Bank may appoint such temporary and casual employees as are necessary for the purposes of this Act.
- 38.2 Employees so appointed shall be employed on such terms and conditions as the Bank determines.

### **39. Requirements for appointment**

- 39.1 A person shall not be appointed under this Act to the Commonwealth Postal Savings Bank Service unless:
- 39.1.1 he is an Australian subject;
  - 39.1.2 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
  - 39.1.3 the Bank is satisfied as to his health and physical fitness.

### **40. Regulations as to Service**

- 40.1 The Managing Director with the consent of Board and the Treasurer may make regulations, not inconsistent with this Act, in relation to the Commonwealth Postal Savings Bank Service and, in particular, may prescribe the terms and conditions of employment of officers.

### **41. Superannuation fund**

- 41.1 There shall be a superannuation fund of the Bank.
- 41.2 The Managing Director with the consent of Board and the Treasurer, may make rules, not inconsistent with this Act or the regulations, for or in relation to the superannuation fund.

### **42. Borrowing by officers**

- 42.1 Subject to this section, the Bank shall not lend money to an officer.
- 42.2 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.
- 42.3 The Bank may, where the Board is satisfied that special circumstances exist, lend to an officer, upon such terms and conditions as the Board thinks fit, money not exceeding at any one time such amount as may from time to time be prescribed by regulation.

### **43. List of officers**

43.1 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.

43.2 The Bank shall forward a copy of the list to the Treasurer for presentation to the Parliament.

#### **44. Requirements of non-disclosure**

44.1 No officer, employee or agent of the Bank shall allow any person to have access to books or papers belonging to the Bank, nor shall he furnish extracts therefrom, nor give information of any kind relating to the business of the Bank (except to or on the order of a customer in respect of his own matters) unless by direction and authority of the Board or under compulsion or obligation of law.

#### **45. Balance sheets**

45.1 The Board shall, once in each year, prepare a balance-sheet of the Bank, and shall submit the balance-sheet to the Auditor-General for report as to its correctness or otherwise, and shall transmit it, together with the report of the Auditor-General, to the Treasurer.

45.2 The Board shall also transmit true copies of the balance-sheet 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.

45.3 Balance-sheets under this section shall be prepared in accordance with the forms prescribed by the regulations.

#### **46. Returns**

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

#### **47. Audit**

47.1 The affairs of the Bank shall be subject to inspection and audit by the Auditor-General.

47.2 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.

#### **48. Power to improve property and carry on business**

48.1 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.

#### **49. Extension of contracts**

49.1 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.



- 49.2 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.
- 49.3 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.
- 49.4 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.
- 49.5 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.

## **50. Seals**

- 50.1 The common seal of the Bank shall be kept in such custody as the Board determines and shall not be affixed to any document without the authority of the General Manager or Deputy Managing Director.

## **51. Priority of debts due to other banks**

- 51.1 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.

## **52. Delivery of bonds etc. on death of customer**

- 52.1 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.
- 52.2 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.

## **53. Investment of trust moneys**

- 53.1 A trustee, executor or administrator may invest any trust moneys in his hands on deposit with the Bank.
- 53.2 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.

## **54. Rules of the Bank**

54.1 The Managing Director may, with the consent of the Board and the Treasurer, make rules, not inconsistent with this Act or the regulations made hereunder, for any of the following purposes:

- 54.1.1 the good governance of the Bank,
- 54.1.2 the classification of the officers of the Bank,
- 54.1.3 to provide a superannuation fund, and
- 54.1.4 any matter necessary or convenient to be provided for carrying on the business of the Bank.

#### **55. Falsification of books etc.**

55.1 Any officer of the Bank who fraudulently and in breach of his duty:

- 55.1.1 makes any false entry in any book, record, or document, or
- 55.1.2 omits to make any entry in any book, record, or document, or
- 55.1.3 by act or omission falsifies any book, record, or document, or
- 55.1.4 destroys or damages any book, record, or document, or
- 55.1.5 furnishes any false return or statement of any money or property, or
- 55.1.6 omits to furnish any return or statement of any money or property,

shall be guilty of an indictable offence.

Penalty: Imprisonment for seven years.

#### **56. Misappropriation of money or property of the Bank**

56.1 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.

#### **57. Validity of acts and transactions of Bank**

57.1 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.

### **PART V - ISSUE OF DEBENTURES BY THE BANK**

#### **58. Capitalization and Borrowed Capital**

58.1 The Bank is authorised to raise medium- to long-term, borrowed capital for projects needs, and short-term capital to meet its cash flow needs, by issuing Bonds, with a fixed five- to 10-year maturity.

58.2 Total loans contracted by the Bank shall not exceed \$50,000,000.

#### **59. Issue of debentures**

59.1 Subject to section 58, the Bank may from time to time issue debentures to such amount as it considers necessary.

#### **60. Form of debentures**

- 60.1 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.

### **61. Interest and period of debentures**

- 61.1 Debentures shall be for One thousand dollars or some multiple thereof, and shall bear interest at a rate to be fixed by the Bank before the issue thereof.
- 61.2 Debentures shall be redeemable at par at such time or times as are specified therein, being:
- 61.1.1 on a fixed date; or
  - 61.1.2 after a fixed date on twelve months' notice given by the Bank in the prescribed manner; or
  - 61.2.3 between fixed dates on twelve months' notice given by the Bank in the prescribed manner.

### **62. Commonwealth guarantee of debentures**

- 62.1 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.

### **63. Negotiability of debentures**

- 63.1 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.

### **64. Sale of debentures**

- 64.1 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.

### **65. Forgery of securities**

- 65.1 Any person who, with intent to defraud:
- 65.1.1 forges any security of the Bank, or
  - 65.1.2 utters any forged security of the Bank, or
  - 65.1.3 makes any instrument for forging any security of the Bank, or
  - 65.1.4 has in his possession any such instrument, or
  - 65.1.5 has in his possession any forged security of the Bank, shall be guilty of an indictable offence.
- Penalty: Imprisonment for ten years.
- 65.2 Any person who, without authority:
- 65.2.1 makes any form of security of the Bank,
  - 65.2.2 has in his possession any form of security of the Bank, or
  - 65.2.3 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.

65.3 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.

**66. Forfeiture of forged securities etc.**

66.1 All forged securities of the Bank, and all unauthorized forms of security of the Bank, and all unauthorized 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.

**2021**

**THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA**

**HOUSE OF REPRESENTATIVES**

**COMMONWEALTH POSTAL SAVINGS BANK ACT 2021**

**EXPLANATORY MEMORANDUM**

**and**

**STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS**

Circulated by authority of

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# COMMONWEALTH POSTAL SAVINGS BANK ACT 2021

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## 1. GENERAL OUTLINE

This Bill will establish a new, government-owned savings bank for the deposit of savings and to make Post Office retail outlets, agencies and franchises available for that purpose and to give Commonwealth security to depositors for repayment of all moneys so deposited with the bank, and for that purpose to:-

- establish a new, government-owned savings bank for the deposit of savings;
- support and encourage the expansion of access to affordable banking, including the provision of short and long-term loans and better banking services to communities which have been deprived of private banking branches and facilities;
- provide access to a government-owned savings bank which is highly accessible, with a large nationwide footprint and extended daily opening hours;
- provide easily accessible service locations, especially at Australian Post Offices, to make it possible for all Australians to access physical banking locations;
- make the Post Office branches, agencies and franchises available for that purpose;
- provide Commonwealth security to depositors for repayment of all moneys so deposited with the Bank;
- provide affordable, transparent, trustworthy banking services, including bank accounts and real-time payment systems and easily accessible service locations, including Australia's Post Offices;
- create a government-owned savings bank to provide all financial products and services, ensuring that the customer's access to the products and the public interest is given significant consideration;
- encourage Australians to save money and have access to banking services;
- provide easily accessible savings products to all strata of the population;
- give small investors a ready means of saving;
- provide funds to facilitate efficient, long-term financing of infrastructure projects, business and economic growth, vital aspects of the economy and new job creation in Australia by the

investment of the Bank's funds with Government-owned institutions which have access to or control of such projects;

- provide such other basic financial services as the Bank determines appropriate in the public interest.

The effect of the Commonwealth Postal Savings Bank Act 2021 will be:-

- to support and encourage the expansion of access to affordable banking, including the provision of short and long-term loans and better banking services to communities which have been deprived of private banking branches and facilities;
- to provide a government-owned savings bank which is highly accessible to all Australians, with a large nationwide footprint and extended daily opening hours;
- to provide easily accessible service locations, especially at Australian Post Offices, to make it possible for all Australians to access physical banking locations;
- to make the Post Office branches, agencies and franchises available for those purposes;
- to provide affordable, transparent, trustworthy banking services, including bank accounts and real-time payment systems and easily accessible service locations, including Australia's Post Offices;
- to provide all financial products and services appropriate to a savings bank business, ensuring that the customer's access to the products and the public interest is given significant consideration;
- to encourage Australians to save money and have access to banking services;
- to provide easily accessible savings products to all strata of the population;
- to give small investors a ready means of saving;
- to provide such other basic financial services as the Bank determines appropriate in the public interest.

## **2. Background to Bill's provisions**

The 2018 Royal Commission into Misconduct in the Banking, Superannuation and Financial Services Industry (Banking Royal Commission) revealed and confirmed many failings of Australia's banking system. The revelations fuelled an ongoing debate about the structure of the banking system, in particular the way just four large institutions dominate Australia's financial sector. The Commonwealth Postal Savings Bank (CPSB) would address many of the structural failings in the Australian banking system.

The Big Four banks—CBA, NAB, ANZ and Westpac—account for around 80 per cent of Australia's financial system. This level of concentration undermines genuine competition in financial services; indeed, the chairman of the Australian Competition and Consumer Commission (ACCC) Rod Sims told the 5 April 2018 AFR Banking and Wealth Summit that the behaviour of the major banks “more resembles synchronised swimming than it does vigorous competition”.

Besides their sectoral dominance, the major banks are to varying degrees vertically integrated conglomerates of commercial banking, investment banking, stock broking, insurance, and superannuation. Consequently, customers who use those banks for basic financial services—deposits, payments and loans—are also exposed to the consequences of the other activities those banks engage in, including the profitable but high-risk investment banking trade in financial derivatives that the banks have expanded enormously in recent decades.

The Banking Royal Commission found that many Australians did not have access to financial services. In his final report Commissioner Hayne noted that about 28 per cent of the Australian

population, nearly 7 million people, lived in regional or remote areas, but only 4 per cent of all branches of ADIs and 2 per cent of ATMs were located in areas classified as remote or very remote. Furthermore, he noted: “The banks’ branch networks have been shrinking for some years. The banks have fewer face-to-face points of presence.” The 6 October 2018 *Daily Telegraph* reported figures from the banks showing that between September 2017 and September 2018, the Big Four banks shut down 196 branches and removed 734 ATMs, leaving many rural and regional communities, and low-income metropolitan communities, without access to financial services.

The closure of bank branches led to increased demand from customers banking at local post offices, which act as agents for the banks. In 2018 Australia Post negotiated a deal with the banks, to pay more to cover the actual cost of post offices serving the banks’ customers. The three-year deal enabled Australia Post to expand its Bank@Post service, which made Australia Post profitable and ensured the viability of its 2,900 community licensed post offices (CLPOs) and financial services for the communities abandoned by the banks. Bank@Post demonstrates the clear benefits of Australia Post providing financial services, both to the business model of Australia Post and to the communities it serves.

Banks also withdraw financial services through de-banking individual businesses, which the banks claim is to reduce reputational risk and the risk of exposure to crimes such as money laundering. De-banking involves closing the accounts of the business, as well as the personal accounts of its principals, and sometime even their family members; moreover, de-banked businesses often find all banks, not just their own bank, will deny them financial services. As private businesses it is the banks’ right to decide who to conduct business with, but businesses that are legal under Australian law should have the right to access financial services.

Likewise, the major banks are aggressively promoting cashless payments systems, and are pursuing targets to reduce cash use in the economy. The banks promote cashless payments in terms of ease, efficiency and security for their customers, but the reduction in the availability and use of cash disadvantages the elderly and disabled, and immigrant communities, who prefer the certainty and simplicity of cash transactions. It also exposes Australians to being stranded from transacting by failures of the electronic payments system when natural disasters and infrastructure problems cause power and/or telecommunications failures.

The Commonwealth Postal Savings Bank would:

- Be a public institution dedicated to the economic prosperity and welfare of the people of Australia;
- Promote genuine competition in the banking system, as the original Commonwealth Bank did for 85 years from 1911 to its privatisation completed in 1996, after which bank profits soared and service declined;
- Provide basic deposit and loan financial services to all Australians, separated from the risks of investment banking and guaranteed by the government;
- Ensure rural and regional communities and low-income metropolitan communities have access to financial services through the post office network;
- Not discriminate against lawful businesses;
- Support and maintain cash use and availability, which is especially important in rural and regional Australia.

### **Structure and operations of CPSB**

The legislation provides that the CPSB would be a standalone national corporation, structured to operate wholly through post offices. This structure avoids the need for Australia Post to have its own banking licence, which has complex implications relating to whether Australia Post would



need one banking licence or many for each of its licensed post offices; this structure also allows the management of the two institutions to focus on their core specialty while cooperating closely. The CPSB's structural relationship to Australia Post would be similar to how the Commonwealth Bank started operations in 1912 using post offices as branches, except the CPSB would be a permanent postal banking service.

The arrangement between the CPSB and Australia Post would somewhat replicate the current Bank@Post arrangement between Australia Post and the private banks, in that the CPSB would compensate Australia Post for being the agent of its financial services. However, it would be different in crucial respects. First, as a permanent arrangement it would not require periodical renegotiation, whereas the Bank@Post deal is subject to renewal by banks, which banks could choose not to do if they cease to see it as in their commercial interest. Second, it would be genuinely mutually beneficial to Australia Post and its CLPOs, based on a fee structure agreed to by Australia Post that the legislation stipulates must reflect the actual cost of post offices serving bank customers, including a reasonable return to Australia Post and its CLPOs. This arrangement would secure Australia Post a permanent source of extra revenue that can subsidise postal delivery and guarantee its future as a public postal service, as well as the future of its unique licensed post office franchise network.

In its operations, the CPSB would generally meet demand that private financial institutions are unwilling to meet due to their business calculation of insufficient profitability. Because the CPSB's primary motivation is service, not profit, and because it is owned and backed by the Commonwealth government, it will have the financial flexibility and patience to serve marginal and neglected sectors and regions and in doing so, help to revive their economic prospects. The CPSB would not be restricted to areas not served by private banks however, as one of its benefits is increasing competition in the banking system, especially in retail banking services.

For many Australians, the CPSB would be an attractive alternative to the private banks. It would provide face-to-face retail banking services, easily accessible through post offices. Being owned by the Commonwealth, it would provide the security of a full Commonwealth government guarantee for deposits, not the more limited guarantee of the Financial Claims Scheme.

The CPSB's operational cost advantage—from using existing post offices instead of needing to invest in expensive new branch locations, and from enjoying a Commonwealth government guarantee—would enable it to subsidise banking services for Australians who are underbanked and unlikely to be served by existing banks.

It would provide credit to communities that have difficulty obtaining credit due to the commercial priorities of private banks; the CPSB would extend credit through competitive loans to individuals, to local businesses including farms, and to local governments for infrastructure. While CPSB customers would initiate loan applications through their local post office, the applications would be assessed and approved by qualified and specialised staff at the CPSB, to ensure high lending standards.

The legislation provides that the CPSB could invest surplus deposits in Commonwealth and State infrastructure projects, including by investing in Commonwealth government financial institutions. This envisions the possibility of a Commonwealth government-owned national infrastructure bank, through which the deposits of CPSB customers could be invested in the economic development of Australia.

As a postal bank, owned and guaranteed by the Commonwealth, and dedicated to increasing banking competition, providing financial services to all Australians and credit for neglected

communities, and promoting economic development, the CPSB would be a safe alternative to the private financial system that serves the Australian people and the real economy.

### **3. Regulatory Impact Statement**

The Bill will have a moderate impact as the authority and powers already exist in respect of the existing regime of regulation of authorised deposit-taking institutions (ADIs).

### **4. Financial Impact Statement**

The bill will have no impact on Commonwealth expenditure or revenue until determined in consultation with the Department in which this Act is administered for the purposes of the Act and once agreed will be included in a relevant appropriation Bill.

### **5. Summary of Key Provisions of the Bill**

The Bill:

1. Establishes a new, government-owned savings bank for the deposit of savings;
2. Supports and encourages the expansion of access to affordable banking, including the provision of short and long-term loans and better banking services to communities which have been deprived of private banking branches and facilities;
3. Provides access to a government-owned savings bank which is highly accessible, with a large nationwide footprint and extended daily opening hours;
4. Provides easily accessible service locations, especially at Australian Post Offices to make it possible for all Australians to access physical banking locations;
5. Makes the Post Office branches, agencies and franchises available for that purpose;
6. Provides Commonwealth security to depositors for repayment of all moneys so deposited with the Bank;
7. Provides affordable, transparent, trustworthy banking services, including bank accounts and real-time payment systems and easily accessible service locations, including Australia's Post Offices;
8. Creates a government-owned savings bank to provide all financial products and services, ensuring that the customer's access to the products and the public interest is given significant consideration;
9. Encourages Australians to save money and have access to banking services;
10. Provides easily accessible savings products to all strata of the population;
11. Gives small investors a ready means of saving;
12. Provides funds to facilitate efficient, long-term financing of infrastructure projects, business and economic growth, vital aspects of the economy and new job creation in Australia by the investment of the Bank's funds with Government-owned institutions which have access to or control of such projects;
13. Provides such other basic financial services as the Bank determines appropriate in the public interest.

### **Explanation of Provisions of the Bill**

#### **Purposes**

- 1.01 Section 3 of the Bill sets out the purposes of the Bill.

- 1.02 The intention of the Bill is to establish a new, government-owned savings bank for the deposit of savings and to make Post Office retail outlets, agencies and franchises available for that purpose and to give Commonwealth security to depositors for repayment of all moneys so deposited with the bank, and for related purposes.

### **Application to the Crown**

- 1.03 The Bill is expressed in Section 5 to bind the Crown.

### **Commonwealth Postal Savings Bank**

- 1.04 The Bill provides in Section 6.1 for the establishment of the Commonwealth Postal Savings Bank.
- 1.05 The Bill provides in Sections 6.2 and 6.3 that the bank shall be a body corporate with perpetual succession and a common seal and for powers to be exercised by the Bank.
- 1.06 The Bill provides in Sections 6.4 to 6.7 for advances to the Bank by the Treasurer and in 6.8 for the repayment of advances.
- 1.07 The Bill provides in Section 6.8 for exemptions of the Bank from taxation.
- 1.08 The Bill provides in Section 6.9 for authority for the Bank to carry on a savings bank business in Australia and to not be subject to regulation by the Australian Prudential Regulation Authority or the Australian Securities & Investments Commission other than as provided for in the Bill.
- 1.09 The Bill further provides in Section 6.10 that the Bank shall not refuse to conduct banking business for any person by reason only that doing so would take away business from another bank.

### **General Function of the Commonwealth Postal Savings Bank**

- 1.10 The Bill provides in Section 7 for the function and duty of the Bank, being to:
- (Section 7.1.1): support and encourage the expansion of access to affordable banking, including the provision of short- and long-term loans and better banking services to communities which have been deprived of private banking branches and facilities;
  - (Section 7.1.2): provide a government-owned savings bank which is highly accessible to all Australians, with a large nationwide footprint and extended daily opening hours;
  - (Section 7.1.3): provide easily accessible service locations, especially at Australian Post Offices to make it possible for all Australians to access physical banking locations;
  - (Section 7.1.4): make the Post Office branches, agencies and franchises available for those purposes;
  - (Section 7.1.5): provide affordable, transparent, trustworthy banking services, including bank accounts and real-time payment systems and easily accessible service locations, including Australia's Post Offices;
  - (Section 7.1.6): provide all financial products and services appropriate to a savings bank business, ensuring that the customer's access to the products and the public interest is given significant consideration;
  - (Section 7.1.7): encourage Australians to save money and have access to banking services;
  - (Section 7.1.8): provide easily accessible savings products to all strata of the population;
  - (Section 7.1.9): give small investors a ready means of saving;

(Section 7.1.10): provide such other basic financial services as the Bank determines appropriate in the public interest.

### **Constitutional limits**

1.11 The Bill provides in Section 8 for the Bank's Constitutional authority.

### **Bank's powers**

1.12 The Bill provides in Section 9 the powers which may be exercised by the Bank.

### **Establishment of Commonwealth Postal Savings Bank Board**

1.13 The Bill provides in Sections 10.1 for the establishment of the Commonwealth Postal Savings Bank Board to be constituted as provided for in Part III (Sections 17 to 22).

### **Functions of Commonwealth Postal Savings Bank Board**

1.14 The Bill provides in Section 11.1 that the Board has power to determine the policy of the Bank and to control the affairs of the Bank.

1.15 The Bill provides in Section 11.2 that it is the duty of the Board to direct Bank policy to the greatest advantage of the people of Australia.

### **Establishment of Executive Committee**

1.16 The Bill provides in Section 12.1 for the establishment of an Executive Committee of the Bank.

1.17 The Bill provides in Section 12.2 that it is the duty of the Executive Committee to give effect to the policy of the Bank.

### **Management of the Bank**

1.18 The Bill provides in Section 13.1 for the appointment of a Managing Director and Deputy Managing Director.

1.19 The Bill provides in Section 13.2 that the Bank shall be managed by the Managing Director.

1.20 The Bill provides in Section 13.3 that the Deputy Managing Director shall perform such duties as determined by the Managing Director and shall exercise the powers and functions of the Managing Director in the event of a vacancy in the office of Managing Director.

### **Managing Director and Secretary to Treasury shall establish a close liaison**

1.21 The Bill provides in Section 14.1 that the Managing Director and the Secretary to the Treasury shall establish a close liaison and keep each other fully informed.

## **Investment of funds**

- 1.22 The Bill prescribes in Section 15.1 the investments which the Bank may make including: in any Government security approved by the Treasurer; on loan on the security of land; in advancing money for the purchase or erection of residential dwelling houses, and for the discharge of mortgages on dwelling houses; in advancing money for the erection of warehouses or storage facilities intended for the warehousing or storage of primary products, including the erection of plant for treatment to ensure their preservation and preparation for marketing; in debentures issued by any Commonwealth government-owned institution; on fixed deposit with any Commonwealth government-owned bank or financial institution; in 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.
- 1.23 The Bill further provides in Section 15.1(h) that the Bank shall not make loans to any financial institution in which any director, office-holder or substantial shareholder is a member or officer of the Bank or has been within 12 months.

## **Bank guaranteed by the Commonwealth**

- 1.24 The Bill provides in Section 16.1 that the Commonwealth shall be responsible for payment of all moneys due by the Bank.

## **Management of the Commonwealth Postal Savings Bank**

- 1.25 The Bill provides in Part III (Sections 17 to 31) for the Management of the Bank.
- 1.26 The Bill provides in Division 1 of Part III (Sections 17 to 22) for the membership and meetings of the Board.

## **Membership of the Board**

- 1.27 The Bill provides in Section 17 membership and qualifications of the members of the Board.
- 1.28 The Bill provides in Section 17.1 that the Board shall consist of the Managing Director, the Deputy Managing Director, the Secretary to the Department of the Treasury, and four other members appointed by the Treasurer.

## **Declaration by Members**

- 1.29 The Bill provides in Section 18 for members of the Board to make an oath or affirmation of allegiance and to provide a statement of the member's registrable interests.

## **Disqualification of membership**

- 1.30 The Bill provides in Section 19.1 those persons who are disqualified from membership of the Board.

## **Vacation of Office**

1.31 The Bill provides in Section 20 of the consequence of a vacation of office by a member of the Board.

## **Chairman and Deputy Chairman of the Board**

1.32 The Bill provides in Section 21 for the appointment by the Treasurer of a Chairman and Deputy Chairman of the Board.

## **Meetings of the Board**

1.33 The Bill provides in Section 22 for meetings of the Board and the quorum for meetings.

## **The Executive Committee**

1.34 The Bill provides in Division 2 of Part III (Sections 23 to 31) for the Executive Committee of the Board.

## **Establishment of Executive Committee**

1.35 The Bill provides in Section 23.1 for the creation of an Executive Committee by the Board.

## **Chief Executive Officer**

1.36 The Bill provides in Section 24 for the appointment of a Chief Executive Officer (“CEO”) by the Executive Committee.

1.37 The Bill provides in Section 24.1 for the appointment of a CEO by the Executive Committee.

1.38 The Bill provides in Section 24.2 for the responsibilities of the CEO.

## **Other Executive Officers**

1.39 The Bill provides in Section 25.1 that the Board shall fix the compensation and determine the duties of the officers of the Executive Committee.

## **Executive Committee Duties**

1.40 The Bill provides in Section 26.1 for the responsibilities of the Executive Committee.

## **Vacancies**

1.41 The Bill provides in Section 27 for the filling of vacancies on the Executive Committee.

## **Remuneration**

1.42 The Bill provides in Section 28.1 that remuneration of the CEO and officers of the Executive Committee shall be determined by the Board.

## **Removal**

- 1.43 The Bill provides in Section 29.1 for the removal of the CEO and officers of the Executive Committee at the discretion of the Board.

## **Term**

- 1.44 The Bill provides in Section 30.1 that the CEO and officers of the Executive Committee shall serve a 6-year term and may be reappointed.

## **Limitations**

- 1.45 The Bill provides in Section 31.1 for prohibitions on interests which may be held by the CEO and officers on the Executive Committee.

## **Miscellaneous provisions relating to the Commonwealth Postal Savings Bank**

- 1.46 The Bill provides in Part IV (Sections 32 to 57) miscellaneous provisions relating to the Bank.

## **Head Office**

- 1.47 The Bill provides in Section 32 that the Head Office of the Bank shall be in Sydney.

## **Branches**

- 1.48 The Bill provides in Section 33 that the Bank may establish branches, agencies and sub-agencies.

## **Agents**

- 1.49 The Bill provides in Section 34.1 that the bank may arrange with any person to act as an agent of the Bank.
- 1.50 The Bill provides in Section 34.2 that the Bank may act as agent for any other bank.
- 1.51 The Bill provides in Section 34.3 that the Bank may appoint Australia Post, its retail outlets, agencies, sub-agencies and Licensed Post Offices as its agents for carrying out any or all of its powers and duties under the Act and Australia Post, its retail outlets, agencies and sub-agencies shall act in accordance with any such appointment.
- 1.52 The Bill provides in Section 34.4 that the Bank shall reimburse Australia Post, its retail outlets, agencies, sub-agencies and Licensed Post Offices such amount or amounts as the Bank and Australia Post shall agree on account of the cost of services rendered under arrangements made in accordance with Section 34, and the amount of such payment shall be subject to review at the end of each agreed period. Section 34.4 further provides that any agreed amount shall take into consideration the amounts and matters as referred to in Section 34.7.
- 1.53 The Bill provides in Section 34.5 that in the event of any difference of opinion between the Bank and Australia Post, its retail outlets, agencies and sub-agencies as to the payment to be made under Section 34, the issue shall be submitted for determination by the Treasurer of the Commonwealth, and his decision shall be binding on all parties.

- 1.54 The Bill provides in Section 34.6 that in the event of a referral to the Treasurer, the Bank and Australia Post shall provide written submissions to the Treasurer as to their respective positions and proposals.
- 1.55 The Bill provides in Section 34.7 that any decision which may be made by the Treasurer shall take into consideration the actual costs incurred by Australia Post, its retail outlets, agencies, sub-agencies and Licensed Post Offices in providing the services and facilities associated with the appointment including a reasonable return thereon, and the effect on the business of Australia Post, its retail outlets, agencies and sub-agencies in providing the additional services and facilities associated with the appointment, and any financial loss which Australia Post, its retail outlets, agencies and sub-agencies may incur as a consequence of their loss of any other agencies or arrangements which they may have already have undertaken or have negotiated.
- 1.56 The Bill provides in Section 34.8 that Australia Post will account to its retail outlets, agencies, and sub-agencies and Licensed Post Offices from payments received from the Bank such amount as may be agreed pursuant to Section 34.4 or such retail costs as may be determined pursuant to Section 34.7.

#### **Appointment of Attorneys**

- 1.57 The Bill provides in Section 35 that the Board may appoint attorneys.

#### **Provision of reports, records and information to the Bank**

- 1.58 The Bill provides in Section 36 that all Commonwealth Departments and institutions may provide information to the Bank.

#### **Commonwealth Postal Savings Bank Service**

- 1.59 The Bill provides in Section 37 for the employment of staff for a Commonwealth Postal Savings Bank Service.

#### **Temporary and casual employees**

- 1.60 The Bill provides in Section 38 for the appointment of temporary and casual staff.

#### **Requirements for appointment**

- 1.61 The Bill provides in Section 39 the requirements for appointment to the Commonwealth Postal Savings Bank Service.

#### **Regulations as to Service**

- 1.62 The Bill provides in Section 40 that the Managing Director with the consent of Board and the Treasurer may make regulations in relation to the Commonwealth Postal Savings Bank Service.

#### **Superannuation fund**

- 1.63 The Bill provides in Section 41 for the creation of a superannuation fund for the Commonwealth Postal Savings Bank Service.



### **Borrowing by officers**

1.64 The Bill provides in Section 42 for limitations on lending to officers of the Bank.

### **List of officers**

1.65 The Bill provides in Section 43 for the provision by the Bank to the Treasurer of lists of Bank officers.

### **Requirements of non-disclosure**

1.66 The Bill provides in Section 44 for non-disclosure obligations of Bank officers.

### **Balance sheets**

1.67 The Bill provides in Section 45 for preparation of annual balance sheets for auditing by the Auditor-General and lodgement with Parliament.

### **Returns**

1.68 The Bill provides in Section 46 for the furnishing by the Bank to the Treasurer of such returns as may be required by Regulations.

### **Audit**

1.69 The Bill provides in Section 47 for annual audits by the Auditor-General.

### **Power to improve property and carry on business**

1.70 The Bill provides in Section 48 for the Bank to maintain, repair or improve property or carry on a business held by the Bank as security and which has fallen into the hands of the Bank.

### **Extension of contracts**

1.71 The Bill provides in Section 49 the requirements for contracts entered into by the Bank.

### **Seals**

1.72 The Bill provides in Section 50 for the retention and fixing of the Bank's common seal.

### **Priority of debts due to other banks**

1.73 The Bill provides in Section 51 for the payment of debts due to the Bank by any bank shall be paid in priority on a winding-up.

### **Delivery of bonds etc. on death of customer**

1.74 The Bill provides in Section 52 for the delivery of bonds or securities by the Bank on the death of a customer.

### **Investment of trust moneys**

- 1.75 The Bill provides in Section 53 that deposits with the Bank and obligations of the Bank shall be lawful investments for trustees, executors or administrators.

### **Rules of the Bank**

- 1.76 The Bill provides in Section 54 for the Managing Director with the consent of the Board and Treasurer to make rules for the good governance of the Bank, the classification of the officers of the Bank, to provide a superannuation fund, and any matter necessary or convenient to be provided for carrying on the business of the Bank.

### **Falsification of books etc.**

- 1.77 The Bill provides in Section 55 for penalties for falsifying Bank books, records or documents.

### **Misappropriation of money or property of the Bank**

- 1.78 The Bill provides in Section 56 for penalties for misappropriation of money or property of the Bank.

### **Validity of acts and transactions of Bank**

- 1.79 The Bill provides in Section 57 for the validation of acts of the bank.

### **Issue of debentures by the Bank**

- 1.80 The Bill provides in Part V (Sections 58 to 65) provisions for the issue of debentures by the Bank.

### **Capitalisation and Borrowed Capital**

- 1.81 The Bill provides in Section 58 provides for the issue of debentures by the bank.

### **Issue of debentures**

- 1.82 The Bill provides in Section 59 that the Bank may establish branches, agencies and sub-agencies.

### **Form of debentures**

- 1.83 The Bill provides in Section 60.1 that the form of debentures shall be as determined by the Bank.

### **Interest and period of debentures**

- 1.84 The Bill provides in Section 61 provides that debentures shall be for multiples of One Thousand Dollars and carry interest as determined by the Bank.

### **Commonwealth guarantee of debentures**

- 1.85 The Bill provides in Section 62 that the Commonwealth guarantees payment of principal and interest on debentures issued by the Bank.

**Negotiability of debentures**

- 1.86 The Bill provides in Section 63 that debentures may be sold at such times and places and in such sums and on such conditions as the Treasurer approves.

**Sale of debentures**

- 1.87 The Bill provides in Section 64 that the Bank may sell debentures or cause them to be sold.

**Forgery of securities**

- 1.88 The Bill provides in Section 65 for penalties for the forgery of any security of the Bank.

**Forfeiture of forged securities etc.**

- 1.89 The Bill provides in Section 66 that all forged or unauthorised forms of securities of the Bank shall be forfeited and may be seized.

## STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

### **Commonwealth Postal Savings Bank Act 2021**

This bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### **Overview of the bill**

The Bill will:-

- establish a new, government-owned savings bank for the deposit of savings;
- support and encourage the expansion of access to affordable banking, including the provision of short and long-term loans and better banking services to communities which have been deprived of private banking branches and facilities;
- provide access to a government-owned savings bank which is highly accessible, with a large nationwide footprint and extended daily opening hours;
- provide easily accessible service locations, especially at Australian Post Offices to make it possible for all Australians to access physical banking locations;
- make the Post Office branches, agencies and franchises available for that purpose;
- provide Commonwealth security to depositors for repayment of all moneys so deposited with the Bank;
- provide affordable, transparent, trustworthy banking services, including bank accounts and real-time payment systems and easily accessible service locations, including Australia's Post Offices;
- create a government-owned savings bank to provide all financial products and services, ensuring that the customer's access to the products and the public interest is given significant consideration;
- encourage Australians to save money and have access to banking services;
- provide easily accessible savings products to all strata of the population;
- give small investors a ready means of saving;
- provide funds to facilitate efficient, long-term financing of infrastructure projects, business and economic growth, vital aspects of the economy and new job creation in Australia by the investment of the Bank's funds with Government-owned institutions which have access to or control of such projects;
- provide such other basic financial services as the Bank determines appropriate in the public interest.

#### **Human rights implications**

This bill does not engage any of the applicable rights or freedoms.

#### **Conclusion**

This bill does not raise any human rights issues.

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