



New South Wales

Westpac Banking Corporation Act 1995 No 76

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Westpac Banking Corporation Act 1995 No 76

Act No 76, 1995

An Act to provide for the application of provisions of the *Corporations Law* and *Corporations Regulations* to Westpac Banking Corporation; and for other purposes. [Assented to 12 December 1995]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Westpac Banking Corporation Act 1995*.

2 Commencement

- (1) This Act commences on the date of assent, except as provided by this section.
- (2) Section 8 commences on a day or days to be appointed by proclamation.

3 Definitions

In this Act:

applied provision means a provision of the corporations legislation as it applies by force of this Act.

Bank means the body politic and corporate constituted by the *Bank of New South Wales Act of 1850*, whose corporate name is Westpac Banking Corporation.

Commission means the Australian Securities Commission.

company means a company incorporated, or taken to be incorporated, under the *Corporations Law*.

corporations legislation means the *Corporations Law* and the *Corporations Regulations*.

deed of settlement means the deed of settlement, as subsequently amended, referred to in the preamble to the *Bank of New South Wales Act of 1850*.

special Acts means the Acts of New South Wales applying specifically to the Bank, including the *Bank of New South Wales Act of 1850*.

4 Application of provisions of corporations legislation

- (1) The regulations may apply:
 - (a) specified provisions of the corporations legislation as in force at any specified time, or
 - (b) specified provisions of the corporations legislation as in force from time to time,

(or both) to the Bank as if it were a company, subject to any modifications specified in the regulations, and those provisions apply accordingly.

- (2) Subsection (1) does not apply to provisions of the corporations legislation to the extent that they apply to the Bank apart from this Act.
- (3) The applied provisions have effect despite anything in the special Acts or in the deed of settlement.
- (4) Without limiting subsection (3), the regulations may provide that specified provisions of the special Acts or of the deed of settlement that are inconsistent with the applied provisions do not have effect to the extent specified in the regulations, and those specified provisions do not have effect accordingly.

5 Particular modifications

- (1) For the purposes of the applied provisions:
 - (a) a reference to the Court is a reference to the Supreme Court, upon which jurisdiction is conferred accordingly, and
 - (b) a reference to lodgment of a document with the Commission is a reference to registration of a memorandum to the effect of the document in the General Register of Deeds under the *Conveyancing Act 1919*, and
 - (c) a reference to a company's memorandum or articles is a reference to the deed of settlement, and
 - (d) a reference to the Commission is a reference to the prescribed authority.
- (2) Subsection (1) does not affect the generality of section 4, and has effect subject to the regulations.

6 Prescribed authority

- (1) The regulations may prescribe any person or body as the prescribed authority referred to in section 5.

- (2) The Commission may be prescribed as the prescribed authority, but only with the concurrence of the Attorney-General for the Commonwealth or another Minister of State for the Commonwealth.
- (3) In the absence of such a regulation, the Attorney General for New South Wales is the prescribed authority.
- (4) The Attorney General for New South Wales is, when exercising or performing powers, authorities, duties or functions under the applied provisions, as far as practicable to seek and take the advice of the Commission (whether generally or in particular cases or classes of cases).
- (5) However, failure to seek or take, or to receive, such advice does not invalidate anything done or omitted to be done under the applied provisions.

7 Proceedings for offences

- (1) Proceedings for an offence against an applied provision may be dealt with as an offence against a law of the State.
- (2) Proceedings for an offence against an applied provision may be dealt with summarily:
 - (a) before a Local Court constituted by a Magistrate sitting alone, or
 - (b) before the Supreme Court in its summary jurisdiction.
- (3) Where proceedings for an offence against an applied provision are dealt with before a Local Court, the maximum pecuniary penalty that may be imposed in respect of the offence is \$10,000 or the pecuniary penalty specified for the offence, whichever is the lesser.
- (4) Where proceedings for an offence against an applied provision are dealt with before the Supreme Court in its summary jurisdiction, the maximum penalty that may be imposed in respect of the offence is the pecuniary penalty specified for the offence.

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- (5) This section does not prevent an offence against an applied provision that is expressed to be an indictable offence from being dealt with on indictment.

8 Amendments

- (1) The *Bank of New South Wales Act of 1850* is amended by omitting section 16.
- (2) The *Bank of New South Wales Act 1923* is amended by omitting section 2.
- (3) The *Bank of New South Wales Act 1923* is amended by omitting section 3.
- (4) The deed of settlement is amended by omitting “or” from clause 98 (2) (d) and by inserting after clause 98 (2) (e):
- ; or
- (f) in the payment of the premium forming part of the consideration payable to shareholders on buy-back of shares.

9 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The *Subordinate Legislation Act 1989* does not apply to the regulations.

[Minister's second reading speech made in—
Legislative Assembly on 23 November 1995
Legislative Council on 7 December 1995]