

[Act 1995 No 76]



New South Wales

Westpac Banking Corporation Bill 1995

Explanatory Note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to enable provisions of the *Corporations Law* and the *Corporations Regulations* to be applied to Westpac Banking Corporation. The Bank is established under the *Bank of New South Wales Act of 1850* and is not a company within the meaning of the *Corporations Law*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent, but amendments made by clause 8 are to commence on a day or days appointed by proclamation.

Clause 3 contains definitions used in the proposed Act.

Clause 4 enables regulations to be made, applying provisions of the *Corporations Law* and the *Corporations Regulations* to the Bank as if it were a company, subject to any modifications specified in the regulations. This power cannot be exercised in relation to provisions applying already to the Bank (in its capacity as a body corporate).

Clause 5 sets out certain modifications that will operate on the applied provisions unless overridden by the regulations. These modifications include construing references to the Court as references to the Supreme Court and references to the Australian Securities Commission as references to the prescribed authority (as to which see clause 6).

Clause 6 contemplates regulations prescribing any person or body as the prescribed authority. The Australian Securities Commission may be prescribed, but only with the concurrence of a Commonwealth Minister. In the absence of such a regulation, the Attorney General for New South Wales is the prescribed authority. The Attorney General is required to seek and take the advice of the Australian Securities Commission as far as practicable when exercising functions under the proposed Act.

Clause 7 provides for the manner of dealing with offences under the applied provisions.

Clause 8 amends Acts and the Bank's deed of settlement in relation to matters that may be dealt with by the applied provisions. These amendments are to commence on a day or days to be appointed by proclamation.

Clause 9 empowers the Governor to make regulations for the purposes of the proposed Act. The clause also provides that the *Subordinate Legislation Act 1989* is not to apply to the regulations. The result of this provision is to exclude automatic sunseting and the need for a regulatory impact statement—this result is the same as would follow from inclusion of a reference to the regulations in Schedule 4 to that Act.