

# Westpac Banking Corporation Act 1995 No 76

[1995-76]



New South Wales

## Status Information

### Currency of version

Repealed version for 15 July 2001 to 19 December 2002 (accessed 17 July 2024 at 22:11)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Act was repealed by the [Westpac Banking Corporation \(Transfer of Incorporation\) Act 2000 No 71](#), by proclamation made under sec 12 with effect from 20.12.2002.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Westpac Banking Corporation Act 1995 No 76



New South Wales

An Act to provide for the application of provisions of the *Corporations Law* and *Corporations Regulations* to Westpac Banking Corporation; and for other purposes.

## 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

- (1) 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 and Investments 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*.

- (2) Notes included in this Act do not form part of this Act.

#### **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.

#### **5A Relationship of this Act with Corporations legislation of the Commonwealth**

- (1) The regulations may declare a matter that is dealt with by this Act or the regulations to be an excluded matter for the purposes of section 5F of the *Corporations Act 2001* of the Commonwealth in relation to:
  - (a) the whole of the Corporations legislation to which Part 1.1A of the *Corporations Act 2001* of the Commonwealth applies, or

- (b) a specified provision of that legislation, or
- (c) that legislation other than a specified provision, or
- (d) that legislation otherwise than to a specified extent.

**Note—**

Section 5F of the *Corporations Act 2001* of the Commonwealth provides that if a State law declares a matter to be an excluded matter for the purposes of that section in relation to all or part of the Corporations legislation of the Commonwealth, then the provisions that are the subject of the declaration will not apply in relation to that matter in the State concerned.

- (2) The regulations may declare a relevant provision of this Act to be a Corporations legislation displacement provision for the purposes of section 5G of the *Corporations Act 2001* of the Commonwealth (either generally or specifically in relation to a provision of the Corporations legislation to which Part 1.1A of the *Corporations Act 2001* of the Commonwealth applies).

**Note—**

Section 5G of the *Corporations Act 2001* of the Commonwealth provides that if a State law declares a provision of a State law to be a Corporations legislation displacement provision, then any provision of the Corporations legislation with which the State provision would otherwise be inconsistent does not apply in the State concerned to the extent necessary to avoid the inconsistency.

- (3) In this section:

**matter** includes act, omission, body, person or thing.

**relevant provision** of this Act means a provision that is:

- (a) a post-commencement provision within the meaning of section 5G of the *Corporations Act 2001* of the Commonwealth, or
- (b) materially amended within the meaning of that section on or after the commencement of the *Corporations Act 2001* of the Commonwealth if the amendment is enacted on or after that commencement.

## **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.
- (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.