

First print



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.

First print



New South Wales

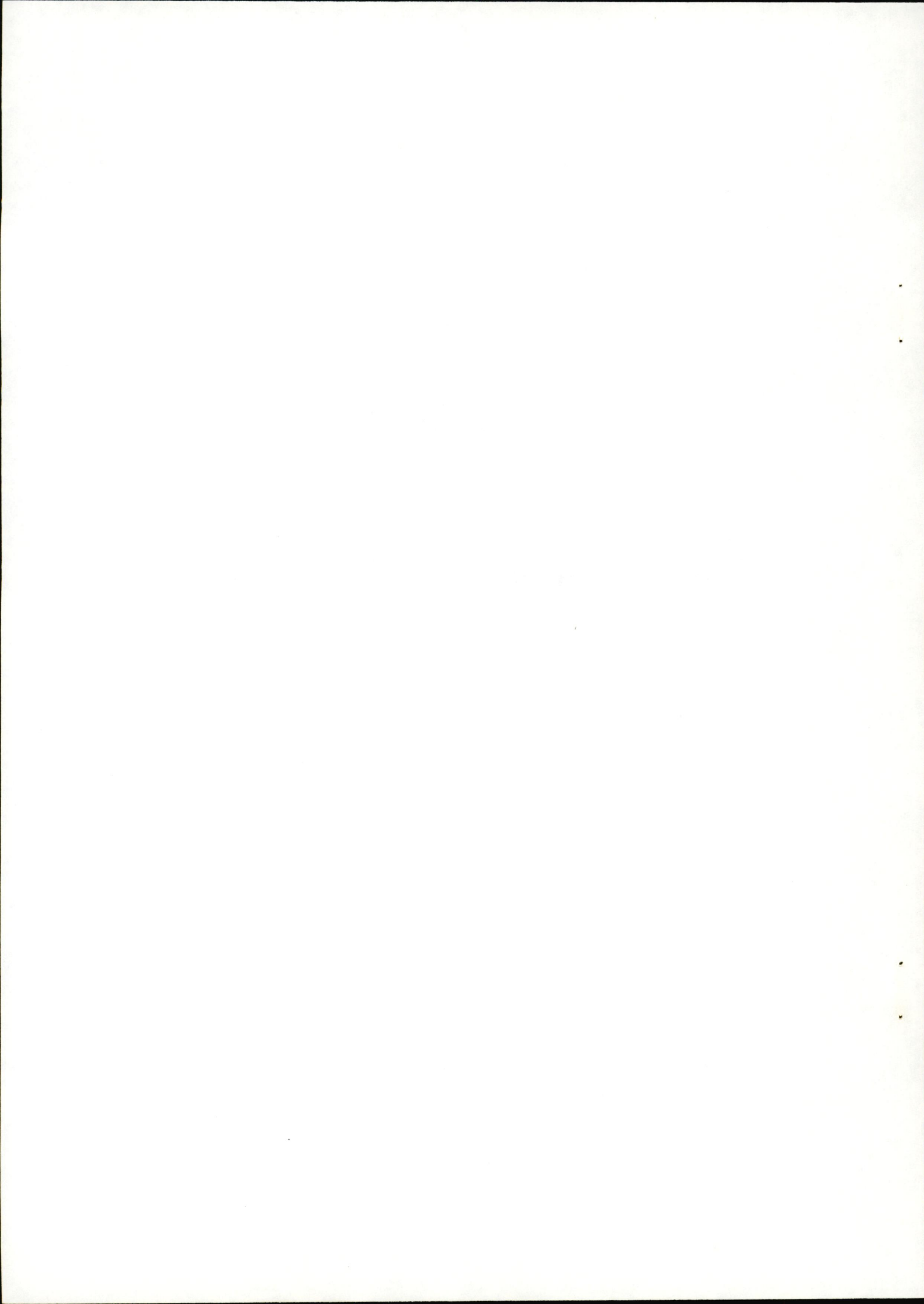
# Westpac Banking Corporation Bill 1995

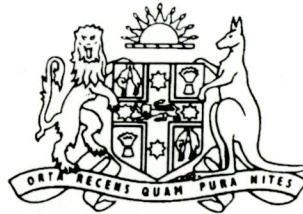
## Contents

---

	Page
1 Name of Act	2
2 Commencement	2
3 Definitions	2
4 Application of provisions of corporations legislation	2
5 Particular modifications	3
6 Prescribed authority	3
7 Proceedings for offences	4
8 Amendments	4
9 Regulations	5

---





New South Wales

# Westpac Banking Corporation Bill 1995

No. , 1995

---

## **A Bill for**

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

---

---

**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. 5
- (2) Section 8 commences on a day or days to be appointed by proclamation.

**3 Definitions**

In this Act: 10

***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. 15

***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*. 20

***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*. 25

**4 Application of provisions of corporations legislation**

- (1) The regulations may apply: 30
- (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. 5
- (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. 10

## 5 Particular modifications

- (1) For the purposes of the applied provisions: 15
- (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 20
- (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. 25
- (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. 30

- (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. 5
- (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). 10
- (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** 15
- (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 20
- (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. 25
- (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. 30



- 
- (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. 5
- (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. 10
- (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. 15

## 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. 20
- (2) The *Subordinate Legislation Act 1989* does not apply to the regulations.





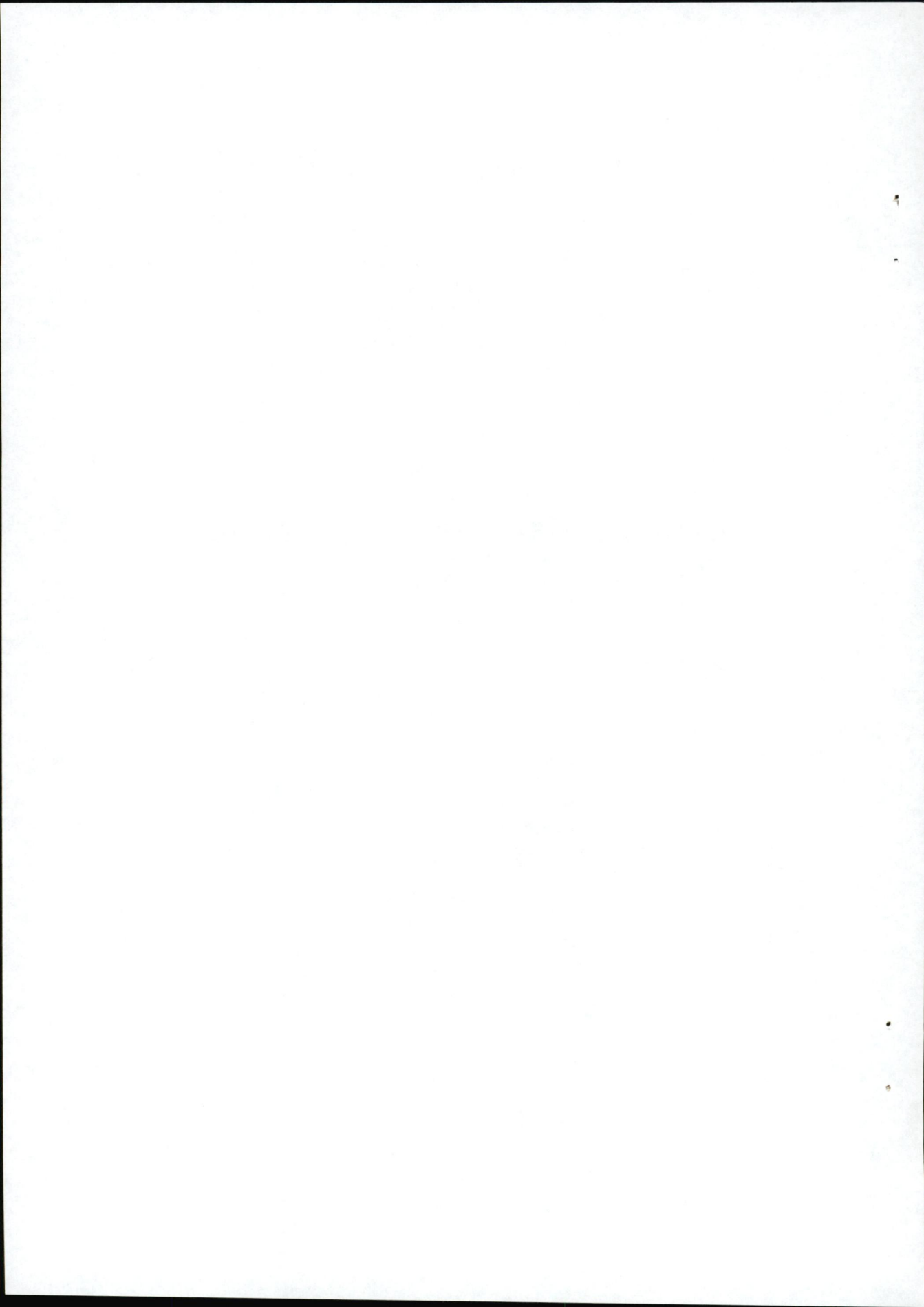
New South Wales

# Westpac Banking Corporation Act 1995 No 76

## Contents

---

	Page
1 Name of Act	2
2 Commencement	2
3 Definitions	2
4 Application of provisions of corporations legislation	2
5 Particular modifications	3
6 Prescribed authority	3
7 Proceedings for offences	4
8 Amendments	4
9 Regulations	5





New South Wales

# **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.



- 
- (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]

BY AUTHORITY

