

1996-97-98

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Payment Systems (Regulation) Bill 1998

No. , 1998

(Treasury)

**A Bill for an Act to provide for the regulation of
payment systems and purchased payment facilities,
and for related purposes**

9802920—787/24.3.1998—(29/98) Cat. No. 97 2812 0 ISBN 0644 518774

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1 **A Bill for an Act to provide for the regulation of**
2 **payment systems and purchased payment facilities,**
3 **and for related purposes**

4 The Parliament of Australia enacts:

5 **Part 1—Preliminary**
6

7 **1 Short title**

8 This Act may be cited as the *Payment Systems (Regulation) Act*
9 1998.

Section 2

1 **2 Commencement**

2 This Act commences on the commencement of the *Australian*
3 *Prudential Regulation Authority Act 1998*.

4 **3 Crown is bound by this Act**

5 This Act binds the Crown in all its capacities, but does not make
6 the Crown liable to be prosecuted for an offence.

7 **4 Application of this Act to external Territories**

8 This Act extends to every external Territory.

9 **5 Application of *Criminal Code***

10 The *Criminal Code* applies to all offences against this Act.

11 **6 Overview of Act**

12 (1) This Act provides for the regulation of payment systems and
13 purchased payment facilities.

14 Note: The regulation of purchased payment facilities operates through
15 regulation of the holders of the stored value of such facilities.

16 (2) Part 2 contains definitions of terms used in this Act.

17 (3) Part 3 deals with the regulation of payment systems. It provides
18 for:

- 19 (a) the designation of payment systems (see Division 2); and
20 (b) the imposition of access regimes on participants in
21 designated payment systems (see Division 3); and
22 (c) standards to be complied with by participants in designated
23 payment systems (see Division 4); and
24 (d) the arbitration of disputes relating to designated payment
25 systems (see Division 5); and
26 (e) directions to be complied with by participants in designated
27 payment systems (see Division 6).
-

Section 6

- 1 (4) Part 4 deals with the regulation of holders of the stored value of
2 purchased payment facilities.
- 3 (5) Part 5 deals with miscellaneous matters.

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Part 2—Interpretation

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7 Definitions

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In this Act:

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access, in relation to a payment system, means the entitlement or eligibility of a person to become a participant in the system, as a user of the system, on a commercial basis on terms that are fair and reasonable.

7

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access regime, in relation to a designated payment system, means an access regime:

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12

(a) that has been imposed by the Reserve Bank under section 12;

13

and

14

(b) that is in force.

15

constitutional corporation means a corporation to which paragraph 51(xx) of the Constitution applies.

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designated payment system means a payment system that is designated under section 11.

18

19

Federal Court means the Federal Court of Australia.

20

holder of the stored value, in relation to a purchased payment facility, has the meaning given by subsection 9(2).

21

22

participant in a payment system means:

23

(a) a constitutional corporation that is a participant in the system in accordance with the rules governing the operation of the system; or

24

25

26

(b) a constitutional corporation that is an administrator of the system.

27

Section 8

1 **payment system** means a funds transfer system that facilitates the
2 circulation of money, and includes any instruments and procedures
3 that relate to the system.

4 **public interest** has the meaning given by section 8.

5 **purchased payment facility** means a facility described in
6 subsection 9(1), other than a facility covered by a declaration under
7 subsection 9(3).

8 **Reserve Bank** means the Reserve Bank of Australia.

9 **standard** means a standard in force under section 18.

8 Meaning of public interest

11 In determining, for the purposes of this Act, if particular action is
12 or would be in, or contrary to, the public interest, the Reserve Bank
13 is to have regard to the desirability of payment systems:

- 14 (a) being (in its opinion):
15 (i) financially safe for use by participants; and
16 (ii) efficient; and
17 (iii) competitive; and
18 (b) not (in its opinion) materially causing or contributing to
19 increased risk to the financial system.

20 The Reserve Bank may have regard to other matters that it
21 considers are relevant, but is not required to do so.

9 Meaning of purchased payment facility and holder of the stored value

- 24 (1) A **purchased payment facility** is a facility (other than cash) in
25 relation to which the following conditions are satisfied:
26 (a) the facility is purchased by a person from another person; and
27 (b) the facility is able to be used as a means of making payments
28 up to the amount that, from time to time, is available for use
29 under the conditions applying to the facility; and

Section 9

1 (c) those payments are to be made by the provider of the facility
2 or by a person acting under an arrangement with the provider
3 (rather than by the user of the facility).

4 However, a facility covered by a declaration under subsection (3)
5 is not a purchased payment facility for the purposes of this Act.

6 (2) The ***holder of the stored value***, in relation to a purchased payment
7 facility, is the person who is to make payments as mentioned in
8 paragraph (1)(c).

9 (3) The Reserve Bank may, by notice in writing published in the
10 *Gazette*, declare that this Act does not apply to a specified facility,
11 or to facilities included in a specified class of facilities, if the
12 Reserve Bank considers that it is not appropriate for this Act to
13 apply to the facility, or to each facility of that class, having regard
14 to:

15 (a) any restrictions that limit the number or types of people who
16 may purchase the facility; or

17 (b) any restrictions that limit the number or types of people to
18 whom payments may be made using the facility.

19 The Reserve Bank may have regard to other matters that it
20 considers are relevant, but is not required to do so.

21 (4) In this section:

22 (a) a reference to a facility includes a reference to a right to use a
23 facility; and

24 (b) a reference to the purchase of a facility includes a reference
25 to the payment of an amount for a right to use a facility.

1

2 **Part 3—Regulation of payment systems**

3 **Division 1—Overview**

4 **10 Overview of main regulatory provisions**

5 (1) Under this Part, the Reserve Bank is given the power to designate
6 payment systems (see Division 2).

7 (2) The Reserve Bank has the following powers in relation to a
8 designated payment system:

- 9 (a) it may impose an access regime on the participants in the
10 payment system (see Division 3); and
11 (b) it may make standards to be complied with by participants in
12 the payment system (see Division 4); and
13 (c) it may arbitrate disputes relating to the payment system (see
14 Division 5); and
15 (d) it may give directions to participants in the payment system
16 (see Division 6).

Section 11

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2 **Division 2—Designation of payment systems**

3 **11 Reserve Bank may designate payment systems**

4 (1) The Reserve Bank may designate a payment system if it considers
5 that designating the system is in the public interest. The
6 designation is to be by notice in writing published in the *Gazette*.

7 (2) The designation has effect until it is revoked.

8 (3) The Reserve Bank may revoke the designation if it no longer
9 considers that it is in the public interest that the system be
10 designated. The revocation is to be by notice in writing published
11 in the *Gazette*.

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2 **Division 3—Access to designated systems**

3 **Subdivision A—Access regimes**

4 **12 Imposition of access regime**

- 5 (1) The Reserve Bank may impose an access regime on the
6 participants in a designated payment system.
- 7 (2) The access regime imposed must be one that the Reserve Bank
8 considers appropriate, having regard to:
- 9 (a) whether imposing the access regime would be in the public
10 interest; and
- 11 (b) the interests of the current participants in the system; and
- 12 (c) the interests of people who, in the future, may want access to
13 the system; and
- 14 (d) any other matters the Reserve Bank considers relevant.
- 15 (3) The Reserve Bank must not impose the access regime unless it has
16 first consulted in accordance with section 28.
- 17 (4) The decision to impose the access regime is to be in writing and is
18 to set out the access regime.
- 19 (5) As soon as practicable after imposing the access regime, the
20 Reserve Bank must provide notification under section 29.
- 21 (6) A failure to comply with subsection (5) does not affect the validity
22 of the access regime.

23 **13 When access regimes are in force**

24 An access regime:

- 25 (a) comes into force:
- 26 (i) unless subparagraph (ii) applies—on the day on which
27 the decision to impose the access regime is made; or

Section 14

- 1 (ii) if that decision specifies a later day as the day on which
2 the access regime comes into force—on the day so
3 specified; and
4 (b) may be varied as provided in section 14; and
5 (c) remains in force until it ceases to be in force as provided in
6 section 15.

7 **14 Variation of access regime**

- 8 (1) The Reserve Bank may vary an access regime if the Reserve Bank
9 considers it is appropriate to do so, having regard to:
10 (a) whether the variation would be in the public interest; and
11 (b) the interests of the current participants in the system; and
12 (c) the interests of people who, in the future, may want access to
13 the system; and
14 (d) any other matters the Reserve Bank considers relevant.
- 15 (2) The Reserve Bank must not vary the access regime unless it has
16 first consulted in accordance with section 28.
- 17 (3) The Reserve Bank may vary the access regime without complying
18 with subsection (2) if it considers that the variation is of a minor
19 technical nature.
- 20 (4) A decision to vary the access regime is to be in writing and is to set
21 out the variation.
- 22 (5) If the Reserve Bank varies the access regime it must, as soon as
23 practicable, provide notification under section 29.
- 24 (6) A failure to comply with subsection (5) does not affect the validity
25 of a variation of the access regime.
- 26 (7) A variation of the access regime takes effect:
27 (a) unless paragraph (b) applies—on the day on which the
28 decision to vary the access regime is made; or
29 (b) if that decision specifies a later day as the day on which the
30 variation comes into force—on the day so specified.
-

1 **15 When access regimes cease to be in force**

- 2 (1) An access regime ceases to be in force if:
- 3 (a) the access regime contains an expiry date and that date is
4 reached; or
- 5 (b) the Reserve Bank, on the application of the participants in the
6 designated payment system concerned, revokes the access
7 regime; or
- 8 (c) the Reserve Bank revokes the access regime on its own
9 initiative; or
- 10 (d) the payment system concerned ceases to exist or ceases to be
11 a designated payment system.
- 12 (2) An application for the revocation of the regime must comply with
13 the applicable requirements determined under section 27.
- 14 (3) The Reserve Bank may revoke the access regime (pursuant to an
15 application or on its own initiative) if the Reserve Bank considers
16 it appropriate to do so, having regard to:
- 17 (a) whether revoking the access regime would be in the public
18 interest; and
- 19 (b) the interests of the current participants in the system; and
- 20 (c) the interests of people who, in the future, may want access to
21 the system; and
- 22 (d) any other matters the Reserve Bank considers relevant.
- 23 (4) A decision to revoke the access regime is to be in writing.
- 24 (5) If the Reserve Bank revokes the access regime it must, as soon as
25 practicable, provide notification under section 29.
- 26 (6) A failure to comply with subsection (5) does not invalidate the
27 revocation of the access regime.
- 28 (7) A revocation of the access regime takes effect:
- 29 (a) unless paragraph (b) applies—on the day on which the
30 decision to revoke the access regime is made; or

Section 16

- 1 (b) if that decision specifies a later day as the day on which the
2 revocation takes effect—on the day so specified.

3 **Subdivision B—Enforcement of access regimes**

4 **16 Right to ask Reserve Bank to give a direction**

5 If a person who has been denied access to a designated payment
6 system considers that the denial of access constitutes, or is
7 attributable (wholly or partly) to, a breach of a provision of an
8 access regime by a participant, the person may ask the Reserve
9 Bank to use its power under section 21 to give a direction to
10 remedy the situation.

11 **17 Right to apply to the Federal Court**

- 12 (1) If a person who has been denied access to a designated payment
13 system considers that the denial of access constitutes, or is
14 attributable (wholly or partly) to, a breach of a provision of an
15 access regime by a participant, the person may apply to the Federal
16 Court for an order under subsection (3).
- 17 (2) The person must notify the Reserve Bank of the application to the
18 Federal Court. The Reserve Bank may apply to the Federal Court
19 to be joined as a party to the proceedings for the order.
- 20 (3) If the Federal Court is satisfied that the participant has breached a
21 provision of the access regime, the Court may make all or any of
22 the following orders:
- 23 (a) an order directing the participant to comply with that
24 provision of the access regime;
- 25 (b) an order directing the participant to compensate any other
26 person who has suffered loss or damage as a result of the
27 breach;
- 28 (c) any other order that the Court considers appropriate.
- 29 (4) The Federal Court may discharge or vary an order made under this
30 section.

1

2 **Division 4—Standards for designated systems**

3 **18 Reserve Bank may make standards for designated systems**

4 (1) The Reserve Bank may, in writing, determine standards to be
5 complied with by participants in a designated payment system if it
6 considers that determining the standards is in the public interest.

7 Note: A failure to comply with a standard is not an offence, but it may lead
8 to a direction being given under section 21.

9 (2) A standard:

10 (a) comes into force:

11 (i) unless subparagraph (ii) applies—on the day on which
12 the determination of the standard is made; or

13 (ii) if that determination specifies a later day as the day on
14 which the standard comes into force—on the day so
15 specified; and

16 (b) continues in force until it is revoked.

17 (3) The Reserve Bank may, in writing, vary or revoke a standard.

18 (4) The Reserve Bank must not determine or vary a standard unless it
19 has first consulted in accordance with section 28.

20 (5) The Reserve Bank may determine or vary a standard without
21 complying with subsection (4) if:

22 (a) the Reserve Bank considers that there is an urgent need for
23 the determination or variation of the standard; or

24 (b) in the case of a variation—the Reserve Bank considers that
25 the variation is of a minor technical nature.

26 (6) If the Reserve Bank determines a standard, or varies or revokes a
27 standard, it must, as soon as practicable, provide notification under
28 section 29.

29 (7) A failure to comply with subsection (6) does not affect the validity
30 of a standard or of the variation or revocation of a standard.

Section 19

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2 **Division 5—Arbitration of disputes relating to designated**
3 **systems**

4 **19 Disputes to which Division applies**

5 This Division applies to the following kinds of disputes:

- 6 (a) a dispute between 2 or more participants in a designated
7 payment system that arises out of, or that is otherwise
8 connected with, that system;
- 9 (b) a dispute between a person and 2 or more participants in a
10 designated payment system for which there is an access
11 regime, being a dispute relating to whether the access regime
12 is being complied with.

13 **20 Arbitration of disputes**

14 (1) The Reserve Bank may arrange for a dispute to which this Division
15 applies to be settled by arbitration in accordance with this section.
16 The Reserve Bank must only do so if:

- 17 (a) it considers that the dispute raises issues related to:
18 (i) the financial safety of payment systems for participants;
19 or
20 (ii) the efficiency of payment systems; or
21 (iii) the competitiveness of payment systems; or
22 (iv) risk to the financial system; and
23 (b) the parties to the dispute agree to the Reserve Bank arranging
24 the arbitration.

25 Note: The Reserve Bank may be acting on its own initiative or in response
26 to a request from one or more of the parties to the dispute in arranging
27 for the arbitration.

28 (2) The arbitration is to be conducted by the Governor of the Reserve
29 Bank, or by a person appointed in writing by the Governor for the
30 purpose.

Section 20

- 1 (3) The person conducting an arbitration is not subject to any action,
2 claim or demand by, or liable to, any person in respect of anything
3 done, or omitted to be done, in good faith in connection with the
4 arbitration.
- 5 (4) The arbitration must be conducted in accordance with the
6 regulations.
- 7 (5) The fact the dispute is being, or has been, settled by arbitration
8 under this section does not prevent a party to the dispute from
9 bringing an action in a court in connection with the dispute, unless
10 the court otherwise orders.

Section 21

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Division 6—Directions to participants in designated systems

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21 Directions

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(1) The Reserve Bank may give a direction to a participant in a designated payment system if the Reserve Bank considers that:

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(a) the participant has failed to comply with a standard; or

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(b) the participant has failed to comply with an access regime.

9

(2) The direction is to require the participant to take specified action, or to refrain from specified action, as the Reserve Bank considers appropriate having regard to the failure.

10

11

12

(3) The direction must be consistent with any applicable standards and with any applicable access regime.

13

14

(4) The direction may deal with the time by which, or the period during which, it is to be complied with.

15

16

(5) The direction is to be given by notice in writing given to the participant.

17

18

(6) The participant is guilty of an offence if:

19

(a) the participant does, or fails to do, an act; and

20

(b) doing, or failing to do, the act results in a contravention of the direction; and

21

22

(c) the doing of the act, or the failure to do the act, occurs at a time when:

23

24

(i) the participant is still a participant in the payment system referred to in subsection (1); and

25

26

(ii) that payment system is still a designated payment system.

27

28

Penalty: 50 penalty units

29

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

30

Section 21

1 Note 2: If a body corporate is convicted of an offence against this subsection,
2 subsection 4B(3) of the *Crimes Act 1914* allows a court to impose a
3 fine of up to 5 times the penalty stated above.

4 (7) If a contravention of the direction occurs in circumstances that give
5 rise to the participant committing an offence against subsection (6),
6 the participant is guilty of an offence against that subsection in
7 respect of:

- 8 (a) the day on which the contravention occurs; and
9 (b) each subsequent day (if any) on which the contravention
10 continues (including the day of conviction for any such
11 offence or any later day).

12 Note: This subsection is not intended to imply that section 4K of the *Crimes*
13 *Act 1914* does not apply to offences against this Act or the regulations.

14 (8) The direction:

- 15 (a) comes into force:
16 (i) unless subparagraph (ii) applies—on the day on which it
17 is given; or
18 (ii) if the instrument giving the direction specifies a later
19 day as the day on which it comes into force—on the day
20 so specified; and
21 (b) continues in force until it is revoked.

22 (9) The Reserve Bank may revoke the direction by notice in writing
23 given to the participant if, at the time of revocation, it considers
24 that the direction is no longer necessary or appropriate.

Section 22

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Part 4—Regulation of purchased payment facilities

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22 Holder of stored value must be an ADI or be authorised or exempted under this Part

6

(1) A constitutional corporation is guilty of an offence if:

7

(a) it is the holder of the stored value of a purchased payment facility; and

8

9

(b) it is not an authorised deposit-taking institution, within the meaning of the *Banking Act 1959*; and

10

11

(c) there is no authority or exemption in force under section 23 or 25 that applies to the corporation and the purchased payment facility.

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Penalty: 200 penalty units.

15

16

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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Note 2: If a body corporate is convicted of an offence against this subsection, subsection 4B(3) of the *Crimes Act 1914* allows a court to impose a fine of up to 5 times the penalty stated above.

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(2) If a constitutional corporation is the holder of the stored value of a purchased payment facility in circumstances that give rise to the corporation committing an offence against subsection (1), the corporation is guilty of an offence against that subsection in respect of:

25

(a) the day on which the contravention occurs; and

26

(b) each subsequent day (if any) on which the contravention continues (including the day of conviction for any such offence or any later day).

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Note: This subsection is not intended to imply that section 4K of the *Crimes Act 1914* does not apply to offences against this Act or the regulations.

23 Authority to be the holder of the stored value

- 1
- 2 (1) A constitutional corporation may apply to the Reserve Bank for an
3 authority to be the holder of the stored value of a class of
4 purchased payment facilities. The application must comply with
5 the applicable requirements determined under section 27.
- 6 (2) The Reserve Bank may grant the authority if it is satisfied that the
7 corporation will be able to satisfy its obligations as the holder of
8 the stored value of purchased payment facilities of the relevant
9 class.
- 10 (3) The grant of the authority is to be by notice in writing given to the
11 corporation.
- 12 (4) The Reserve Bank may, at any time, by notice in writing given to
13 the corporation:
14 (a) impose conditions, or additional conditions, on the authority;
15 and
16 (b) vary or revoke conditions imposed on the authority.
17 The conditions must be aimed at ensuring the corporation meets its
18 obligations as holder of the stored value of purchased payment
19 facilities of the relevant class.
- 20 (5) The authority:
21 (a) comes into force:
22 (i) unless subparagraph (ii) applies—on the day on which it
23 is granted; or
24 (ii) if the instrument granting the authority specifies a later
25 day as the day on which it comes into force—on the day
26 so specified; and
27 (b) continues in force until it is revoked.
- 28 (6) The Reserve Bank may revoke the authority by notice in writing to
29 the corporation if:
30 (a) it is no longer satisfied as mentioned in subsection (2); or
31 (b) it considers that the corporation has contravened a condition
32 of the authority; or
-

Section 24

- 1 (c) the corporation applies to the Reserve Bank for revocation of
2 the authority; or
3 (d) the corporation ceases to be the holder of the stored value of
4 any purchased payment facilities of the relevant class.
5 An application for revocation of the authority must comply with
6 any applicable requirements determined under section 27.
- 7 (7) If the Reserve Bank:
8 (a) grants an authority under subsection (2); or
9 (b) imposes, varies or revokes conditions under subsection (4);
10 or
11 (c) revokes an authority under subsection (6);
12 the Reserve Bank must cause notice of that action to be published
13 in the *Gazette*.
- 14 (8) Failure to comply with subsection (7) does not affect the validity of
15 the action concerned.

16 **24 Directions on failure to comply with conditions**

- 17 (1) The Reserve Bank may give a direction to a corporation that has
18 been granted an authority under section 23 if the Reserve Bank
19 considers that the corporation has failed to comply with a condition
20 of the authority.
- 21 (2) The direction is to require the corporation to take specified action,
22 or to refrain from specified action, as the Reserve Bank considers
23 appropriate having regard to the failure.
- 24 (3) The direction may deal with the time by which, or the period
25 during which, it is to be complied with.
- 26 (4) The direction is to be given by notice in writing given to the
27 corporation.
- 28 (5) The corporation is guilty of an offence if:
29 (a) the corporation does, or fails to do, an act; and

- 1 (b) doing, or failing to do, the act results in a contravention of
 2 the direction; and
 3 (c) the doing of the act, or the failure to do the act, occurs at a
 4 time when;
 5 (i) the authority referred to in subsection (1) is still in
 6 force; and
 7 (ii) the corporation is the holder of the stored value of one
 8 or more purchased payment facilities of the class to
 9 which that authority applies.

10 Penalty: 50 penalty units.

11 Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of
 12 criminal responsibility.

13 Note 2: If a body corporate is convicted of an offence against this subsection,
 14 subsection 4B(3) of the *Crimes Act 1914* allows a court to impose a
 15 fine of up to 5 times the penalty stated above.

- 16 (6) If a contravention of the direction occurs in circumstances that give
 17 rise to the corporation committing an offence against subsection
 18 (5), the corporation is guilty of an offence against that subsection
 19 in respect of:
 20 (a) the day on which the contravention occurs; and
 21 (b) each subsequent day (if any) on which the contravention
 22 continues (including the day of conviction for any such
 23 offence or any later day).

24 Note: This subsection is not intended to imply that section 4K of the *Crimes*
 25 *Act 1914* does not apply to offences against this Act or the regulations.

- 26 (7) The direction:
 27 (a) comes into force:
 28 (i) unless subparagraph (ii) applies—on the day on which it
 29 is given; or
 30 (ii) if the instrument giving the direction specifies a later
 31 day as the day on which it comes into force—on the day
 32 so specified; and
 33 (b) continues in force until it is revoked.

Section 25

- 1 (8) The Reserve Bank may revoke the direction by notice in writing to
2 the corporation if, at the time of revocation, it considers that the
3 direction is no longer necessary or appropriate.

4 **25 Exemptions**

- 5 (1) The Reserve Bank may grant a corporation, or corporations
6 included in a class of corporations, an exemption allowing the
7 corporation, or each corporation in the class, to be the holder of the
8 stored value in respect of purchased payment facilities in a
9 particular class even though the corporation is not an authorised
10 deposit-taking institution, within the meaning of the *Banking Act*
11 *1959*, and does not have an authority under section 23 of this Act
12 that covers those facilities.
- 13 (2) The Reserve Bank may be acting on its own initiative or pursuant
14 to an application in granting the exemption. An application for an
15 exemption must comply with the applicable requirements
16 determined under section 27.
- 17 (3) The Reserve Bank may grant the exemption if it is satisfied that the
18 corporation, or each of the corporations in the class, will be able to
19 satisfy the obligations of the holder of the stored value of
20 purchased payment facilities of the relevant class.
- 21 (4) The exemption is to be granted:
- 22 (a) if it applies to a particular corporation—by notice in writing
23 given to the corporation; or
- 24 (b) if it applies to a class of corporations—by notice in writing
25 published in the *Gazette*.
- 26 (5) The exemption:
- 27 (a) comes into force:
- 28 (i) unless subparagraph (ii) applies—on the day on which it
29 is given; or
- 30 (ii) if the instrument granting the exemption specifies a later
31 day as the day on which it comes into force—on the day
32 so specified; and
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- 1 (b) continues in force until it is revoked.
- 2 (6) The Reserve Bank may revoke the exemption if it is no longer
3 satisfied as mentioned in subsection (3). The revocation is to be:
4 (a) if it applies to a particular corporation—by notice in writing
5 given to the corporation; or
6 (b) if it applies to a class of corporations—by notice in writing
7 published in the *Gazette*.
- 8 (7) If the Reserve Bank:
9 (a) grants an exemption to a particular corporation under
10 subsection (3); or
11 (b) revokes an exemption under subsection (6), being an
12 exemption granted to a particular corporation;
13 the Reserve Bank must cause notice of that action to be published
14 in the *Gazette*.
- 15 (8) Failure to comply with subsection (7) does not affect the validity of
16 the action concerned.

Section 26

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Part 5—Miscellaneous

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26 Persons to give Reserve Bank information

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(1) The Reserve Bank may require a participant in a payment system (whether or not it is a designated payment system) to give the Reserve Bank information relating to the payment system and its participants.

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(2) The Reserve Bank may require a corporation that is authorised under section 23, or that is exempted under section 25, to give the Reserve Bank information relating to purchased payment facilities of the class to which the authority or exemption relates.

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(3) A corporation (including a participant in a payment system) commits an offence if it refuses or fails to comply with a requirement under this section.

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Penalty: 200 penalty units.

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Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

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Note 2: If a body corporate is convicted of an offence against this subsection, subsection 4B(3) of the *Crimes Act 1914* allows a court to impose a fine of up to 5 times the penalty stated above.

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Note 3: The secrecy requirements of Part 6 of the *Reserve Bank Act 1959* apply to information provided under this section.

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(4) If a refusal or failure to comply with a requirement under this section occurs in circumstances that give rise to a corporation (including a participant in a payment system) committing an offence against subsection (3), the corporation is guilty of an offence against that subsection in respect of:

- (a) the day on which the refusal or failure occurs; and
- (b) each subsequent day (if any) until the requirement is complied with (including the day of conviction for any such offence or any later day).

1 Note: This subsection is not intended to imply that section 4K of the *Crimes*
2 *Act 1914* does not apply to offences against this Act or the regulations.

3 **27 Power to determine requirements for applications**

4 The Reserve Bank may, in writing, determine requirements to be
5 complied with in relation to applications under this Act, including
6 (but not limited to) requirements relating to:

- 7 (a) the means by which an application is to be made; and
8 (b) the information or documentation that is to be included in or
9 submitted with an application; and
10 (c) the verification of an application or of information or
11 documentation included in or submitted with it.

12 **28 Consultation obligations**

- 13 (1) Subsection (2) applies to the following actions proposed to be
14 taken by the Reserve Bank:
15 (a) the proposed imposition of an access regime;
16 (b) the proposed variation of an access regime, other than a
17 variation to which subsection 14(3) applies;
18 (c) the proposed determination of a standard, other than a
19 determination to which subsection 18(5) applies;
20 (d) the proposed variation of a standard, other than a variation to
21 which subsection 18(5) applies.
- 22 (2) If this subsection applies to a proposed action, the Reserve Bank
23 must, before taking the action:
24 (a) cause a notice to be published in the *Gazette*:
25 (i) advising of the proposed action; and
26 (ii) summarising its purpose and effect; and
27 (iii) inviting people to make submissions within a specified
28 time to the Reserve Bank on the proposed action; and
29 (b) consider any submissions that are received within that time
30 limit.

Section 29

1 **29 Notification obligations**

2 *Notification of determination or variation of standard or*
3 *imposition or variation of access regime*

4 (1) Subsection (2) applies to the following actions taken by the
5 Reserve Bank:

- 6 (a) the imposition of an access regime;
7 (b) the variation of an access regime;
8 (c) the determination of a standard;
9 (d) the variation of a standard.

10 (2) If this subsection applies to an action, the Reserve Bank must:

- 11 (a) cause a notice to be published in the *Gazette*:
12 (i) advising of the action; and
13 (ii) summarising its purpose and effect; and
14 (b) take reasonable steps to ensure that the participants in the
15 payment system concerned are informed of the action; and
16 (c) take reasonable steps to ensure that people will be able to get
17 access to the current text of the standard or the access regime.

18 *Notification of revocation of a standard or an access regime*

19 (3) If the Reserve Bank revokes a standard or an access regime, the
20 Reserve Bank must:

- 21 (a) cause a notice advising of the revocation to be published in
22 the *Gazette*; and
23 (b) take reasonable steps to ensure that any participants in the
24 payment system concerned are informed of the revocation.

25 **30 Power to publish by other means**

26 If, under this Act, the Reserve Bank is required or permitted to
27 publish notice of a matter in the *Gazette*, or to take particular
28 action by notice published in the *Gazette*, the Reserve Bank may
29 also publish notice of the matter, or of the taking of the action, in

1 any other way it considers appropriate (including by electronic
2 means).

3 **31 Delegation**

4 (1) The Reserve Bank may, by written instrument, delegate all or any
5 of its functions or powers under this Act to a person who holds any
6 of the following offices:

- 7 (a) Governor of the Reserve Bank;
- 8 (b) Deputy Governor of the Reserve Bank;
- 9 (c) Assistant Governor of the Reserve Bank;
- 10 (d) Department Head of the Reserve Bank;
- 11 (e) any other prescribed office in the Reserve Bank Service.

12 (2) The Governor of the Reserve Bank may, in writing, delegate all or
13 any of the Governor's functions or powers under this Act to a
14 person who holds any of the following offices:

- 15 (a) Deputy Governor of the Reserve Bank;
- 16 (b) Assistant Governor of the Reserve Bank;
- 17 (c) Department Head of the Reserve Bank;
- 18 (d) any other prescribed office in the Reserve Bank Service.

19 (3) In exercising powers under a delegation under subsection (1) or
20 (2), the delegate must comply with any directions of the delegator.

21 Note: For further information about delegations, see sections 34AA to 34A
22 of the *Acts Interpretation Act 1901*.

23 **32 Regulations**

24 The Governor-General may make regulations, not inconsistent with
25 this Act, prescribing matters:

- 26 (a) required or permitted by this Act to be prescribed; or
- 27 (b) necessary or convenient for carrying out or giving effect to
28 this Act.