



ATTACHMENT 1: EXTRACTS FROM PAYMENT SYSTEMS (REGULATION) ACT 1998

7 Definitions

In this Act:

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.

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

- (a) that has been imposed by the Reserve Bank under section 12; and
- (b) that is in force.

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

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

participant in a payment system means:

- (a) a constitutional corporation that is a participant in the system in accordance with the rules governing the operation of the system; or
- (b) a constitutional corporation that is an administrator of the system.

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

public interest has the meaning given by section 8.

Reserve Bank means the Reserve Bank of Australia.

standard means a standard in force under section 18.

8 Meaning of public interest

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

- (a) being (in its opinion):
 - (i) financially safe for use by participants; and
 - (ii) efficient; and
 - (iii) competitive; and



- (b) not (in its opinion) materially causing or contributing to increased risk to the financial system.

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

11 Reserve Bank may designate payment systems

- (1) The Reserve Bank may designate a payment system if it considers that designating the system is in the public interest. The designation is to be by notice in writing published in the *Gazette*.
- (2) The designation has effect until it is revoked.
- (3) The Reserve Bank may revoke the designation if it no longer considers that it is in the public interest that the system be designated. The revocation is to be by notice in writing published in the *Gazette*.

12 Imposition of access regime

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



18 Reserve Bank may make standards for designated systems

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

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

- (2) A standard:
 - (a) comes into force:
 - (i) unless subparagraph (ii) applies—on the day on which the determination of the standard is made; or
 - (ii) if that determination specifies a later day as the day on which the standard comes into force—on the day so specified; and
 - (b) continues in force until it is revoked.
- (3) The Reserve Bank may, in writing, vary or revoke a standard.
- (4) The Reserve Bank must not determine or vary a standard unless it has first consulted in accordance with section 28.
- (5) The Reserve Bank may determine or vary a standard without complying with subsection (4) if:
 - (a) the Reserve Bank considers that there is an urgent need for the determination or variation of the standard; or
 - (b) in the case of a variation—the Reserve Bank considers that the variation is of a minor technical nature.
- (6) If the Reserve Bank determines a standard, or varies or revokes a standard, it must, as soon as practicable, provide notification under section 29.
- (7) A failure to comply with subsection (6) does not affect the validity of a standard or of the variation or revocation of a standard.

28 Consultation obligations

- (1) Subsection (2) applies to the following actions proposed to be taken by the Reserve Bank:
 - (a) the proposed imposition of an access regime;
 - (b) the proposed variation of an access regime, other than a variation to which subsection 14(3) applies;



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- (c) the proposed determination of a standard, other than a determination to which subsection 18(5) applies;
 - (d) the proposed variation of a standard, other than a variation to which subsection 18(5) applies.
- (2) If this subsection applies to a proposed action, the Reserve Bank must, before taking the action:
- (a) cause a notice to be published in the *Gazette*:
 - (i) advising of the proposed action; and
 - (ii) summarising its purpose and effect; and
 - (iii) inviting people to make submissions within a specified time to the Reserve Bank on the proposed action; and
 - (b) consider any submissions that are received within that time limit.