



Payment Systems (Regulation) Act 1998

No. 58, 1998

Compilation No. 5

Compilation date:	10 March 2016
Includes amendments up to:	Act No. 4, 2016
Registered:	8 June 2016

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Payment Systems (Regulation) Act 1998* that shows the text of the law as amended and in force on 10 March 2016 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	1
1 Short title	1
2 Commencement	1
3 Crown is bound by this Act	1
4 Application of this Act to external Territories	1
5 Application of <i>Criminal Code</i>	1
6 Overview of Act	1
Part 2—Interpretation	3
7 Definitions	3
8 Meaning of <i>public interest</i>	4
9 Meaning of <i>purchased payment facility</i> and <i>holder of the stored value</i>	4
Part 3—Regulation of payment systems	6
Division 1—Overview	6
10 Overview of main regulatory provisions	6
Division 2—Designation of payment systems	7
11 Reserve Bank may designate payment systems	7
Division 3—Access to designated systems	8
Subdivision A—Access regimes	8
12 Imposition of access regime	8
13 When access regimes are in force	8
14 Variation of access regime	9
15 When access regimes cease to be in force	10
15A Authorisation of conduct under access regime for the purposes of the <i>Competition and Consumer Act 2010</i>	11
Subdivision B—Enforcement of access regimes	11
16 Right to ask Reserve Bank to give a direction	11
17 Right to apply to the Federal Court	11
Division 4—Standards for designated systems	13
18 Reserve Bank may make standards for designated systems	13
18A Authorisation of conduct under certain standards for the purposes of the <i>Competition and Consumer Act 2010</i>	14

Division 5—Arbitration of disputes relating to designated systems	15
19 Disputes to which Division applies	15
20 Arbitration of disputes	15
Division 6—Directions to participants in designated systems	17
21 Directions	17
Part 4—Regulation of purchased payment facilities	19
22 Holder of stored value must be an ADI or be authorised or exempted under this Part	19
23 Authority to be the holder of the stored value	20
24 Directions on failure to comply with conditions.....	21
25 Exemptions.....	23
Part 5—Miscellaneous	25
26 Persons to give Reserve Bank information	25
27 Power to determine requirements for applications.....	26
28 Consultation obligations	26
29 Notification obligations	27
30 Power to publish by other means	27
31 Delegation	28
32 Regulations.....	28
Endnotes	29
Endnote 1—About the endnotes	29
Endnote 2—Abbreviation key	31
Endnote 3—Legislation history	32
Endnote 4—Amendment history	33

An Act to provide for the regulation of payment systems and purchased payment facilities, and for related purposes

Part 1—Preliminary

1 Short title

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

2 Commencement

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

3 Crown is bound by this Act

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

4 Application of this Act to external Territories

This Act extends to every external Territory.

5 Application of *Criminal Code*

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

6 Overview of Act

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

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

- (2) Part 2 contains definitions of terms used in this Act.
- (3) Part 3 deals with the regulation of payment systems. It provides for:
 - (a) the designation of payment systems (see Division 2); and
 - (b) the imposition of access regimes on participants in designated payment systems (see Division 3); and
 - (c) standards to be complied with by participants in designated payment systems (see Division 4); and
 - (d) the arbitration of disputes relating to designated payment systems (see Division 5); and
 - (e) directions to be complied with by participants in designated payment systems (see Division 6).
- (4) Part 4 deals with the regulation of holders of the stored value of purchased payment facilities.
- (5) Part 5 deals with miscellaneous matters.

Part 2—Interpretation

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.

Federal Court means the Federal Court of Australia.

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

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.

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

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.

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

- (1) A **purchased payment facility** is a facility (other than cash) in relation to which the following conditions are satisfied:
 - (a) the facility is purchased by a person from another person; and
 - (b) the facility is able to be used as a means of making payments up to the amount that, from time to time, is available for use under the conditions applying to the facility; and
 - (c) those payments are to be made by the provider of the facility or by a person acting under an arrangement with the provider (rather than by the user of the facility).

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

- (2) The ***holder of the stored value***, in relation to a purchased payment facility, is the person who is to make payments as mentioned in paragraph (1)(c).
- (3) The Reserve Bank may, by notice in writing published in the *Gazette*, declare that this Act does not apply to a specified facility, or to facilities included in a specified class of facilities, if the Reserve Bank considers that it is not appropriate for this Act to apply to the facility, or to each facility of that class, having regard to:
 - (a) any restrictions that limit the number or types of people who may purchase the facility; or
 - (b) any restrictions that limit the number or types of people to whom payments may be made using the facility.

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

- (4) In this section:
 - (a) a reference to a facility includes a reference to a right to use a facility; and
 - (b) a reference to the purchase of a facility includes a reference to the payment of an amount for a right to use a facility.

Part 3—Regulation of payment systems

Division 1—Overview

10 Overview of main regulatory provisions

- (1) Under this Part, the Reserve Bank is given the power to designate payment systems (see Division 2).
- (2) The Reserve Bank has the following powers in relation to a designated payment system:
 - (a) it may impose an access regime on the participants in the payment system (see Division 3); and
 - (b) it may make standards to be complied with by participants in the payment system (see Division 4); and
 - (c) it may arbitrate disputes relating to the payment system (see Division 5); and
 - (d) it may give directions to participants in the payment system (see Division 6).

Division 2—Designation of payment systems

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*.

Division 3—Access to designated systems

Subdivision A—Access regimes

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.

13 When access regimes are in force

An access regime:

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

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

14 Variation of access regime

- (1) The Reserve Bank may vary an access regime if the Reserve Bank considers it is appropriate to do so, having regard to:
 - (a) whether the variation 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.
- (2) The Reserve Bank must not vary the access regime unless it has first consulted in accordance with section 28.
- (3) The Reserve Bank may vary the access regime without complying with subsection (2) if it considers that the variation is of a minor technical nature.
- (4) A decision to vary the access regime is to be in writing and is to set out the variation.
- (5) If the Reserve Bank varies the access regime it must, as soon as practicable, provide notification under section 29.
- (6) A failure to comply with subsection (5) does not affect the validity of a variation of the access regime.
- (7) A variation of the access regime takes effect:
 - (a) unless paragraph (b) applies—on the day on which the decision to vary the access regime is made; or
 - (b) if that decision specifies a later day as the day on which the variation comes into force—on the day so specified.

15 When access regimes cease to be in force

- (1) An access regime ceases to be in force if:
 - (a) the access regime contains an expiry date and that date is reached; or
 - (b) the Reserve Bank, on the application of the participants in the designated payment system concerned, revokes the access regime; or
 - (c) the Reserve Bank revokes the access regime on its own initiative; or
 - (d) the payment system concerned ceases to exist or ceases to be a designated payment system.
- (2) An application for the revocation of the regime must comply with the applicable requirements determined under section 27.
- (3) The Reserve Bank may revoke the access regime (pursuant to an application or on its own initiative) if the Reserve Bank considers it appropriate to do so, having regard to:
 - (a) whether revoking 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.
- (4) A decision to revoke the access regime is to be in writing.
- (5) If the Reserve Bank revokes the access regime it must, as soon as practicable, provide notification under section 29.
- (6) A failure to comply with subsection (5) does not invalidate the revocation of the access regime.
- (7) A revocation of the access regime takes effect:
 - (a) unless paragraph (b) applies—on the day on which the decision to revoke the access regime is made; or

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

15A Authorisation of conduct under access regime for the purposes of the *Competition and Consumer Act 2010*

For the purposes of subparagraph 51(1)(a)(i) of the *Competition and Consumer Act 2010*, anything that is done:

- (a) by a participant in a designated payment system under an access regime; and
(b) in accordance with that access regime;
is taken to be specified in, and specifically authorised by, this Act.

Subdivision B—Enforcement of access regimes

16 Right to ask Reserve Bank to give a direction

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

17 Right to apply to the Federal Court

- (1) If a person who has been denied access to a designated payment system considers that the denial of access constitutes, or is attributable (wholly or partly) to, a breach of a provision of an access regime by a participant, the person may apply to the Federal Court for an order under subsection (3).
- (2) The person must notify the Reserve Bank of the application to the Federal Court. The Reserve Bank may apply to the Federal Court to be joined as a party to the proceedings for the order.

Section 17

- (3) If the Federal Court is satisfied that the participant has breached a provision of the access regime, the Court may make all or any of the following orders:
- (a) an order directing the participant to comply with that provision of the access regime;
 - (b) an order directing the participant to compensate any other person who has suffered loss or damage as a result of the breach;
 - (c) any other order that the Court considers appropriate.
- (4) The Federal Court may discharge or vary an order made under this section.

Division 4—Standards for designated systems

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.

18A Authorisation of conduct under certain standards for the purposes of the *Competition and Consumer Act 2010*

- (1) For the purposes of subparagraph 51(1)(a)(i) of the *Competition and Consumer Act 2010*, anything that is done:
- (a) by a participant in relation to the setting, or charging, of wholesale fees (also known as interchange fees) payable under a payment system to which an interchange fees standard applies; and
 - (b) in accordance with that standard;
- is taken to be specified in, and specifically authorised by, this Act.
- (2) In this section:

interchange fees standard means any of the following standards as amended and in force from time to time:

- (a) a standard that is known as Standard No. 1, The Setting of Wholesale (“Interchange”) Fees and that was determined by the Reserve Bank on 26 August 2002;
- (b) a standard specified by the regulations for the purposes of this paragraph.

Division 5—Arbitration of disputes relating to designated systems

19 Disputes to which Division applies

This Division applies to the following kinds of disputes:

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

20 Arbitration of disputes

- (1) The Reserve Bank may arrange for a dispute to which this Division applies to be settled by arbitration in accordance with this section.

The Reserve Bank must only do so if:

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

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

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

Part 3 Regulation of payment systems

Division 5 Arbitration of disputes relating to designated systems

Section 20

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

Division 6—Directions to participants in designated systems

21 Directions

- (1) The Reserve Bank may give a direction to a participant in a designated payment system if the Reserve Bank considers that:
 - (a) the participant has failed to comply with a standard; or
 - (b) the participant has failed to comply with an access regime.
- (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.
- (3) The direction must be consistent with any applicable standards and with any applicable access regime.
- (4) The direction may deal with the time by which, or the period during which, it is to be complied with.
- (5) The direction is to be given by notice in writing given to the participant.
- (6) The participant commits an offence if:
 - (a) the participant does, or fails to do, an act; and
 - (b) doing, or failing to do, the act results in a contravention of the direction; and
 - (c) the doing of the act, or the failure to do the act, occurs at a time when:
 - (i) the participant is still a participant in the payment system referred to in subsection (1); and
 - (ii) that payment system is still a designated payment system.

Penalty: 50 penalty units

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

Part 3 Regulation of payment systems

Division 6 Directions to participants in designated systems

Section 21

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.

- (7) If a contravention of the direction occurs in circumstances that give rise to the participant committing an offence against subsection (6), the participant commits an offence against that subsection in respect of:
- (a) the day on which the contravention occurs; and
 - (b) each subsequent day (if any) on which the contravention continues (including the day of conviction for any such offence or any later day).

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.

- (8) The direction:
- (a) comes into force:
 - (i) unless subparagraph (ii) applies—on the day on which it is given; or
 - (ii) if the instrument giving the direction specifies a later day as the day on which it comes into force—on the day so specified; and
 - (b) continues in force until it is revoked.
- (9) The Reserve Bank may revoke the direction by notice in writing given to the participant if, at the time of revocation, it considers that the direction is no longer necessary or appropriate.

Part 4—Regulation of purchased payment facilities**22 Holder of stored value must be an ADI or be authorised or exempted under this Part**

- (1) A constitutional corporation commits an offence if:
- (a) it is the holder of the stored value of a purchased payment facility; and
 - (b) it is not an authorised deposit-taking institution, within the meaning of the *Banking Act 1959*; and
 - (c) there is no authority or exemption in force under section 23 or 25 that applies to the corporation and the purchased payment facility.

Penalty: 200 penalty units.

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

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.

- (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 commits an offence against that subsection in respect of:
- (a) the day on which the contravention occurs; and
 - (b) each subsequent day (if any) on which the contravention continues (including the day of conviction for any such offence or any later day).

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

- (c) the corporation applies to the Reserve Bank for revocation of the authority; or
- (d) the corporation ceases to be the holder of the stored value of any purchased payment facilities of the relevant class.

An application for revocation of the authority must comply with any applicable requirements determined under section 27.

- (7) If the Reserve Bank:
 - (a) grants an authority under subsection (2); or
 - (b) imposes, varies or revokes conditions under subsection (4); or
 - (c) revokes an authority under subsection (6);the Reserve Bank must cause notice of that action to be published in the *Gazette*.
- (8) Failure to comply with subsection (7) does not affect the validity of the action concerned.

24 Directions on failure to comply with conditions

- (1) The Reserve Bank may give a direction to a corporation that has been granted an authority under section 23 if the Reserve Bank considers that the corporation has failed to comply with a condition of the authority.
- (2) The direction is to require the corporation to take specified action, or to refrain from specified action, as the Reserve Bank considers appropriate having regard to the failure.
- (3) The direction may deal with the time by which, or the period during which, it is to be complied with.
- (4) The direction is to be given by notice in writing given to the corporation.
- (5) The corporation commits an offence if:
 - (a) the corporation does, or fails to do, an act; and
 - (b) doing, or failing to do, the act results in a contravention of the direction; and

Section 24

- (c) the doing of the act, or the failure to do the act, occurs at a time when;
 - (i) the authority referred to in subsection (1) is still in force; and
 - (ii) the corporation is the holder of the stored value of one or more purchased payment facilities of the class to which that authority applies.

Penalty: 50 penalty units.

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

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.

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

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.

- (7) The direction:
 - (a) comes into force:
 - (i) unless subparagraph (ii) applies—on the day on which it is given; or
 - (ii) if the instrument giving the direction specifies a later day as the day on which it comes into force—on the day so specified; and
 - (b) continues in force until it is revoked.
- (8) The Reserve Bank may revoke the direction by notice in writing to the corporation if, at the time of revocation, it considers that the direction is no longer necessary or appropriate.

25 Exemptions

- (1) The Reserve Bank may grant a corporation, or corporations included in a class of corporations, an exemption allowing the corporation, or each corporation in the class, to be the holder of the stored value in respect of purchased payment facilities in a particular class even though the corporation is not an authorised deposit-taking institution, within the meaning of the *Banking Act 1959*, and does not have an authority under section 23 of this Act that covers those facilities.
- (2) The Reserve Bank may be acting on its own initiative or pursuant to an application in granting the exemption. An application for an exemption must comply with the applicable requirements determined under section 27.
- (3) The Reserve Bank may grant the exemption if it is satisfied that the corporation, or each of the corporations in the class, will be able to satisfy the obligations of the holder of the stored value of purchased payment facilities of the relevant class.
- (4) The exemption is to be granted:
 - (a) if it applies to a particular corporation—by notice in writing given to the corporation; or
 - (b) if it applies to a class of corporations—by notice in writing published in the *Gazette*.
- (5) The exemption:
 - (a) comes into force:
 - (i) unless subparagraph (ii) applies—on the day on which it is given; or
 - (ii) if the instrument granting the exemption specifies a later day as the day on which it comes into force—on the day so specified; and
 - (b) continues in force until it is revoked.
- (6) The Reserve Bank may revoke the exemption if it is no longer satisfied as mentioned in subsection (3). The revocation is to be:

Section 25

- (a) if it applies to a particular corporation—by notice in writing given to the corporation; or
 - (b) if it applies to a class of corporations—by notice in writing published in the *Gazette*.
- (7) If the Reserve Bank:
- (a) grants an exemption to a particular corporation under subsection (3); or
 - (b) revokes an exemption under subsection (6), being an exemption granted to a particular corporation;
- the Reserve Bank must cause notice of that action to be published in the *Gazette*.
- (8) Failure to comply with subsection (7) does not affect the validity of the action concerned.

Part 5—Miscellaneous

26 Persons to give Reserve Bank information

- (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.
- (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.
- (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.

Penalty: 200 penalty units.

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

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.

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

- (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 commits 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).

Section 27

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.

27 Power to determine requirements for applications

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

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

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;
 - (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.

29 Notification obligations

Notification of determination or variation of standard or imposition or variation of access regime

- (1) Subsection (2) applies to the following actions taken by the Reserve Bank:
 - (a) the imposition of an access regime;
 - (b) the variation of an access regime;
 - (c) the determination of a standard;
 - (d) the variation of a standard.
- (2) If this subsection applies to an action, the Reserve Bank must:
 - (a) cause a notice to be published in the *Gazette*:
 - (i) advising of the action; and
 - (ii) summarising its purpose and effect; and
 - (b) take reasonable steps to ensure that the participants in the payment system concerned are informed of the action; and
 - (c) take reasonable steps to ensure that people will be able to get access to the current text of the standard or the access regime.

Notification of revocation of a standard or an access regime

- (3) If the Reserve Bank revokes a standard or an access regime, the Reserve Bank must:
 - (a) cause a notice advising of the revocation to be published in the *Gazette*; and
 - (b) take reasonable steps to ensure that any participants in the payment system concerned are informed of the revocation.

30 Power to publish by other means

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

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

31 Delegation

- (1) The Reserve Bank may, by written instrument, delegate all or any of its functions or powers under this Act to a person who holds any of the following offices:
 - (a) Governor of the Reserve Bank;
 - (b) Deputy Governor of the Reserve Bank;
 - (c) Assistant Governor of the Reserve Bank;
 - (d) Department Head of the Reserve Bank;
 - (e) any other prescribed office in the Reserve Bank Service.
- (2) The Governor of the Reserve Bank may, in writing, delegate all or any of the Governor's functions or powers under this Act to a person who holds any of the following offices:
 - (a) Deputy Governor of the Reserve Bank;
 - (b) Assistant Governor of the Reserve Bank;
 - (c) Department Head of the Reserve Bank;
 - (d) any other prescribed office in the Reserve Bank Service.
- (3) In exercising powers under a delegation under subsection (1) or (2), the delegate must comply with any directions of the delegator.

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

32 Regulations

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

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

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can

Endnotes

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Payment Systems (Regulation) Act 1998	58, 1998	29 June 1998	1 July 1998 (s 2)	
Payment Systems (Regulation) Amendment Act 2005	65, 2005	26 June 2005	1 July 2005 (s 2(1) item 2)	Sch 1 (item 2)
Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010	103, 2010	13 July 2010	Sch 6 (items 1, 83): 1 Jan 2011 (s 2(1) items 3, 5)	—
Corporations and Other Legislation Amendment (Trustee Companies and Other Measures) Act 2011	24, 2011	12 Apr 2011	Sch 2: 13 Apr 2011 (s 2(1) item 7)	—
Statute Law Revision Act (No. 1) 2016	4, 2016	11 Feb 2016	Sch 4 (items 1, 229): 10 Mar 2016 (s 2(1) item 6)	—

Endnote 4—Amendment history

Provision affected	How affected
Part 3	
Division 3	
Subdivision A	
s. 15A	ad. No. 24, 2011
Division 4	
Heading to 18A.....	am. No. 103, 2010
s. 18A	ad. No. 65, 2005
	am. No. 103, 2010
Division 6	
s 21	am No 4, 2016
Part 4	
s 22	am No 4, 2016
s 24	am No 4, 2016
Part 5	
s 26	am No 4, 2016