

**Power to make regulations**

(1) Where the Governor-General considers it expedient to do so for purposes related to:

- (a) foreign exchange or the foreign exchange resources of Australia;
- (b) the protection of the currency or the protection of the public credit or revenue of Australia; or
- (c) foreign investment in Australia, Australian investment outside Australia, foreign ownership or control of property in Australia or of Australian property outside Australia or Australian ownership or control of property outside Australia or of foreign property in Australia;

the Governor-General may make regulations, not inconsistent with this Act, in accordance with this section.

(2) The regulations authorized to be made by this section are regulations (being regulations with respect to matters with respect to which the Parliament has power to make laws) making provision for or in relation to:

- (a) rates of exchange;
- (b) the control or prohibition of the buying, borrowing, selling, lending or exchanging in Australia of, or other dealing in Australia with, foreign currency by or on behalf of any person, and of the buying, borrowing, selling, lending or exchanging outside Australia of, or other dealing outside Australia with, foreign currency by or on behalf of a person who is a resident;
- (c) the control or prohibition of any transaction that has the effect of or involves a purchase, borrowing, sale, loan or exchange of, or that otherwise relates to, foreign currency, being a transaction that takes place in whole or in part in Australia or to which a person who is a resident is a party;
- (d) the control or prohibition of the buying, borrowing, selling, lending or exchanging outside Australia of, or other dealing outside Australia with, Australian currency by or on behalf of any person, and of the buying, borrowing, selling, lending or exchanging in Australia, or other dealing in Australia with, Australian currency by or on behalf of a person who is not a resident;
- (e) the control or prohibition of any transaction that has the effect of or involves a purchase, borrowing, sale, loan or exchange of, or that otherwise relates to, Australian currency, being a transaction that takes place in whole or in part outside Australia or to which a person who is not a resident is a party;
- (f) the control or prohibition of the taking or sending out of Australia, and of the bringing or sending into Australia, of Australian currency or foreign currency;
- (g) requiring any person who is a resident and who has power to sell, or to procure the sale of, any foreign currency, or any person (whether a resident or not) who has power to sell in Australia, or to procure the sale in Australia of, any foreign currency, to sell, or to procure the sale of, that currency as prescribed;
- (h) requiring any person who is not a resident and who has power to sell, or to procure the sale of, any Australian currency, or any person (whether a resident or not) who has power to sell outside Australia, or to procure the sale outside Australia of, any Australian currency, to sell, or to procure the sale of, that currency as prescribed;
- (i) the control or prohibition of the taking, sending or transfer of any securities to a place outside Australia (including the transfer of securities from a register in Australia to a register outside Australia), and of the bringing, sending or

transfer of any securities to Australia from a place outside Australia (including the transfer of securities from a register outside Australia to a register in Australia);

(j) the control or prohibition of the buying, borrowing, selling, lending or exchanging of, or other dealing with, property that is in Australia, or of Australian securities that are outside Australia, by or on behalf of a person who is not a resident;

(k) the control or prohibition of any transaction that has the effect of or involves a purchase, borrowing, sale, loan or exchange of, or that otherwise relates to, property that is in Australia, or of Australian securities that are outside Australia, being a transaction to which a person who is not a resident is a party;

(l) the control or prohibition of the buying, borrowing, selling, lending or exchanging of, or other dealing with, property that is outside Australia, or of foreign securities that are in Australia, by or on behalf of a person who is a resident;

(m) the control or prohibition of any transaction that has the effect of or involves a purchase, borrowing, sale, loan or exchange of, or that otherwise relates to, property that is outside Australia, or of foreign securities that are in Australia, being a transaction to which a person who is a resident is a party;

(n) requiring any person who is a resident and by whom moneys are payable to a person who is not a resident to pay those moneys within such time as is fixed by or under the regulations;

(o) the control or prohibition of the importation or exportation of goods;

(p) the obtaining by the Reserve Bank (or by a person authorized by the Bank for the purpose) of information, and the examination by the Bank (or by a person authorized by the Bank for the purpose) of accounts, books, documents or other papers, for purposes related to the exercise of the Bank's powers or the performance of the Bank's functions under the regulations;

(q) prescribing penalties not exceeding a fine of 1,000 penalty units, or imprisonment for a period not exceeding 5 years, for offences against the regulations made under this section; and

(r) empowering a court to order the forfeiture, or the disposal in accordance with the directions of the Reserve Bank, of Australian currency, foreign currency, goods or other property in respect of which an offence against the regulations made under this section has been committed.

(3) Without limiting the generality of the power of the Governor-General to make regulations under this section, the regulations may:

(a) for any purpose of the regulations, prohibit the doing of any act or thing (including the importation or exportation of goods) specified in the regulations either absolutely or subject to conditions, being conditions which may prohibit the doing of the act or thing without the authority of the Reserve Bank or except in pursuance of a licence granted under the regulations;

(b) make provision for or in relation to terms and conditions subject to which such authorities or licences shall or may be granted, being terms and conditions which may require the deposit of money with the Reserve Bank; and

(c) make provision for or in relation to the granting of exemptions, either unconditionally or subject to conditions determined by the Reserve Bank, from the application of any provision of the regulations.

(4) Regulations under this section may provide:

(a) that the regulations, or a particular provision of the regulations specified in the regulations, shall apply, without modification or with such modifications as are prescribed, to and in relation to a resident included in a prescribed class of persons as if the person were not a resident; and

(b) that the regulations, or a particular provision of the regulations specified in the regulations, shall apply, without modification or with such modifications as are prescribed, to and in relation to a person who is not a **resident** but is included in a prescribed class of persons, as if the person were a **resident**.

(5) Regulations under this section may provide:

(a) that, where a body corporate that is not a **resident** has a place of business in **Australia**, the body corporate shall be deemed, for the purposes of the regulations or a particular provision of the regulations specified in the regulations, to be a **resident** in relation to the affairs of the body corporate conducted by the body corporate at or through that place of business, including any business carried on, transactions entered into and acts and things done by the body corporate at or through that place of business; and

(b) that, where a body corporate that is a **resident** has a place of business outside **Australia**, the body corporate shall be deemed, for the purposes of the regulations or a particular provision of the regulations specified in the regulations, not to be a **resident** in relation to the affairs of the body corporate conducted by the body corporate at or through that place of business, including any business carried on, transactions entered into and acts and things done by the body corporate at or through that place of business.

(6) Regulations under this section may provide that no act or thing done, or contract or other transaction entered into, is invalid or unenforceable by reason only that the provisions of the regulations have not, or a particular provision of the regulations specified in the regulations has not, been complied with, but regulations so made shall not be construed as having the effect of preventing a person from being convicted of an offence against the regulations by reason of having failed to comply with a provision of the regulations.

(7) Regulations under this section may provide that, in the exercise of its powers or the performance of its functions under the regulations, or under a particular provision of the regulations specified in the regulations, **the Reserve Bank** is subject to the directions of the Treasurer.

(8) In this section:

**"Australian currency"** includes notes, coins, postal notes, money orders, bills of exchange, **promissory notes**, drafts, letters of credit and travellers' cheques payable or expressed in Australian money, and also includes rights, and instruments of title, to Australian money.

**"Australian securities"** means **securities** or other **property** included in a class of **securities** or **property** specified in the regulations as **Australian securities**.

**"foreign currency"** includes notes, coins, postal notes, money orders, bills of exchange, **promissory notes**, drafts, letters of credit and travellers' cheques payable or expressed otherwise than in Australian money, and also includes rights and instruments of title, to money other than Australian money.

**"foreign securities"** means **securities** or other **property** included in a class of **securities** or **property** specified in the regulations as **foreign securities**.

**"property"** includes **securities** and rights under **securities**.

**"resident"** means:

(a) a person, not being a body corporate, who is ordinarily **resident** in **Australia**; and

(b) a body corporate which is incorporated in **Australia**.

**"securities"** includes shares, stock, bonds, debentures, debenture stock, treasury bills and notes, and units or sub-units of a unit trust, and also includes deposit receipts in respect of the deposit of **securities** and documents of title to **securities**.

(9) Nothing in Part IV shall be taken as limiting the power of the Governor-General to make regulations under this section for or in relation to the control or prohibition of the importation or exportation of gold, or otherwise with respect to gold.

(10) A reference in this section to [property](#) that is in [Australia](#) shall be read as including a reference to a right, not being [property](#), that is exercisable in [Australia](#), and a reference in this section to [property](#) that is outside [Australia](#) shall be read as including a reference to a right, not being [property](#), that is not exercisable in [Australia](#).

(11) Nothing in [subsection](#) (1) shall be taken to affect, by implication or otherwise, the interpretation or operation of regulations made under this section.