



## Supreme Court of New Zealand

7 April 2011

### **MEDIA RELEASE – FOR IMMEDIATE PUBLICATION**

***Westpac Banking Corporation, Bank of New Zealand, ANZ National Bank Limited v The Commissioner of Inland Revenue***  
**(SC 83/2009) [2011] NZSC 36**

### **PRESS SUMMARY**

**This summary is provided to assist in the understanding of the Court's judgment. It does not comprise part of the reasons for that judgment. The full judgment with reasons is the only authoritative document. The full text of the judgment and reasons can be found at [www.courtsofnz.govt.nz](http://www.courtsofnz.govt.nz).**

The Supreme Court has unanimously held that banks are not entitled to retain money that is to be paid under foreign currency drafts and bank cheques which they have issued but which are not presented for payment. The Court has decided that, six years after their purchase, the money represented by these financial instruments becomes unclaimed money under the Unclaimed Money Act 1971. Such money must be paid to the Commissioner of Inland Revenue.

The three appellant banks had argued that, as their liability to pay moneys under foreign currency drafts and bank cheques was conditional on the instruments being presented for payment, they had no obligation to pay until the condition was fulfilled. If the condition was never fulfilled, the money never became payable. They argued that the Unclaimed Money Act did not apply in this situation.

The Supreme Court has rejected this interpretation of the Act, holding that under its provisions the money was payable as soon as demand could be made, which was at the

time of purchase of the instruments by the appellants' customers. If no such demand was made during the period of six years following purchase, the money became unclaimed money under the Act. It then had to be paid by the appellants to the Inland Revenue Department.

The Supreme Court accordingly upheld the Court of Appeal's judgment to the same effect in favour of the Commissioner of Inland Revenue.

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