

**Reprint
as at 25 January 2005**



Cheques Act 1960

Public Act 1960 No 17
Date of assent 30 September 1960
Commencement see section 1(2)

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Note

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this reprint.

A general outline of these changes is set out in the notes at the end of this reprint, together with other explanatory material about this reprint.

This Act is administered by the Ministry of Business, Innovation, and Employment.

An Act to amend the law relating to cheques and certain other instruments**1 Short Title and commencement**

- (1) This Act may be cited as the Cheques Act 1960, and shall be read together with and deemed part of the Bills of Exchange Act 1908 (hereinafter referred to as “the principal Act”).
- (2) This Act shall come into force on 1 January 1961.

2 Protection of bankers paying unindorsed or irregularly indorsed cheques

- (1) Where a banker in good faith and in the ordinary course of business pays a cheque drawn on him which is not indorsed or is irregularly indorsed, he shall not, in doing so, incur any liability by reason only of the absence of, or irregularity in, indorsement, and he shall be deemed to have paid it in due course.
- (2) Where a banker in good faith and in the ordinary course of business pays any such instrument as the following, namely—
 - (a) a document issued by a customer of his which, though not a bill of exchange, is intended to enable a person to obtain payment from him of the sum mentioned in the document; or
 - (b) a draft payable on demand drawn by him upon himself whether payable at the head office or some other office of his bank—

he shall not, in doing so, incur any liability by reason only of the absence of, or irregularity in, indorsement, and the payment shall discharge the instrument.

3 Rights of bankers collecting cheques not indorsed by holders

A banker who gives value for, or has a lien on, a cheque payable to order which the holder delivers to him for collection without indorsing it shall have such rights (if any) as he would have had if, upon delivery, the holder had indorsed it in blank.

4 Unindorsed cheques as evidence of payment

An unindorsed cheque which appears to have been paid by a banker on whom it is drawn shall, in the absence of proof to the contrary, be sufficient evidence of the receipt by the payee of the sum payable by the cheque.

5 Protection of bankers collecting payment of cheques

- (1) Where a banker in good faith and without negligence—
 - (a) receives payment for a customer of an instrument to which this section applies; or
 - (b) having credited a customer’s account with the amount of any such instrument receives payment thereof for himself—

and the customer has no title, or a defective title, to the instrument, the banker shall not incur any liability to the true owner of the instrument by reason only of having received payment thereof.

- (2) This section applies to the following instruments, namely:
- (a) cheques:
 - (b) any document issued by a customer of a banker which, though not a bill of exchange, is intended to enable a person to obtain payment from that banker of the sum mentioned in the document:
 - (c) any document, not being a bill of exchange, issued by an official in the service of Her Majesty which is intended to enable a person to obtain payment from a Crown Bank Account or any other Government account under the Public Finance Act 1989 of the sum mentioned in the document:
 - (d) any document, not being a bill of exchange, issued by any person or authority which is intended to enable a person to obtain payment from any such account as may from time to time be specified in that behalf by the Governor-General by Order in Council of the sum mentioned in the document:
 - (e) any draft payable on demand drawn by a banker upon himself, whether payable at the head office or some other office of his bank.
- (3) A banker shall not be treated for the purposes of this section as having been negligent by reason only of his failure to concern himself with the absence of, or irregularity in, indorsement of an instrument.

Section 5(2)(c): amended, on 25 January 2005, pursuant to section 83(7) of the Public Finance Act 1989 (1989 No 44).

Section 5(2)(c): amended, on 1 July 1989, pursuant to section 87 of the Public Finance Act 1989 (1989 No 44).

Section 5(2)(c): amended, on 1 April 1978, by section 160(1) of the Public Finance Act 1977 (1977 No 65).

6 Application of certain provisions of principal Act

The provisions of the principal Act relating to crossed cheques shall, so far as applicable, have effect in relation to instruments (other than cheques) to which section 5 applies as they have effect in relation to cheques.

7 Effect of Act

Nothing in the provisions of this Act shall be deemed to make negotiable any instrument which, apart from those provisions, is not negotiable.

7A Interpretation

- (1) For the purposes of sections 7D and 7E, **inter-bank clearing system** means any system for the presentment and payment of cheques by electronic or other means between paying and collecting banks or between paying and collecting

branches of banks and that is established in accordance with written rules that are binding on those banks or branches.

- (2) Notwithstanding section 73 of the Bills of Exchange Act 1908, for the purposes of sections 7B to 7E, a cheque includes—
- (a) a document issued by a customer of a bank that, although not a bill of exchange, is intended to enable a person to obtain payment from the bank of a sum mentioned in the document; and
 - (b) a draft payable on demand drawn by a bank upon that bank whether payable at the head office or some other office of that bank.

Section 7A: inserted, on 30 June 1995, by section 2 of the Bills of Exchange Amendment Act 1995 (1995 No 35).

7B Non-transferable cheques

- (1) This section applies to a cheque that is crossed and that bears across its face—
- (a) the words “Not transferable” or “Non-transferable”; or
 - (b) the words “account payee” or “a/c payee”, either with or without the word “only”.
- (2) A cheque to which this section applies is valid only as between the parties to it and is not transferable.
- (3) Where a cheque to which this section applies contains an endorsement that is intended to have the effect of negotiating or transferring ownership of the cheque,—
- (a) the endorsement is not effective to transfer ownership of the cheque; and
 - (b) to the extent that a banker collects the cheque without giving effect to the endorsement, the banker acts in the ordinary course of business and without negligence; and
 - (c) to the extent that a banker collects the cheque giving effect to the endorsement, the banker does not act in the ordinary course of business and without negligence; and
 - (d) if it is necessary for a banker who pays the cheque to consider whether the person by whom or on whose behalf the cheque is presented for payment is the true owner of the cheque,—
 - (i) to the extent that the banker pays the cheque without giving effect to the endorsement, the banker acts in the ordinary course of business and without negligence; and
 - (ii) to the extent that the banker pays the cheque giving effect to the endorsement, the banker does not act in the ordinary course of business and without negligence.
- (4) Nothing in section 8(1) of the Bills of Exchange Act 1908 applies to a cheque.
- (5) This section shall come into force on 1 January 1996.

Section 7B: inserted, on 30 June 1995, by section 2 of the Bills of Exchange Amendment Act 1995 (1995 No 35).

7C Transfer of dishonoured cheques permitted in certain cases

- (1) Nothing in section 7B prevents the transfer of a cheque to which that section applies if the cheque is transferred—
- (a) after it has been presented for payment by or on behalf of the payee and been dishonoured by non-payment; and
 - (b) in favour of any person (including the collecting banker in respect of the cheque) who—
 - (i) is authorised by the payee of the cheque to recover payment of the amount of the cheque on behalf of the payee; or
 - (ii) has paid or credited the payee of the cheque with the whole or part of the amount of the cheque and is authorised by the payee to recover payment of the amount of the cheque on that person's own behalf.
- (2) This section shall come into force on 1 January 1996.

Section 7C: inserted, on 30 June 1995, by section 2 of the Bills of Exchange Amendment Act 1995 (1995 No 35).

7D Presentment of cheques for payment

- (1) A cheque is presented for payment if it is presented in accordance with the following rules:
- (a) presentment must be made within a reasonable time after the date of the cheque;
 - (b) presentment must be made—
 - (i) by the holder, or by some person authorised to receive payment on behalf of the holder, presenting the cheque at the branch of the bank on which the cheque is drawn or at such other place as may be specified on the cheque, as the case may be, at a time when the branch or other place is open for business; or
 - (ii) by the bank receiving payment for a customer or for that bank presenting the cheque at the place designated by the paying bank in accordance with the rules of an inter-bank clearing system; or
 - (iii) if the cheque is a cheque referred to in subsection (4) or belongs to a class of cheques referred to in that subsection, by the bank receiving payment for a customer or for that bank delivering to the paying bank particulars of the cheque by electronic or other means in accordance with the rules of an inter-bank clearing system;
 - (c) where a cheque is presented for payment in accordance with paragraph (b)(i) or (ii) at the proper place for presentment and no person with au-

thority to pay or refuse payment of the cheque is available, no further presentment to the bank upon which the cheque is drawn is required.

- (2) Where a cheque is presented for payment in accordance with subsection (1)(b)(iii), the paying bank may—
 - (a) request the collecting bank to provide it with such further particulars in relation to the cheque as it may specify; or
 - (b) whether or not it has made a request under paragraph (a), request the collecting bank to exhibit the cheque or a copy of the cheque to it.
- (3) After a cheque that has been presented under subsection (1)(b)(iii) is paid, the collecting bank must, when required to do so by the paying bank, but subject to such conditions as may be specified in the rules of the inter-bank clearing system, give possession of the cheque to the paying bank.
- (4) Any banks or branches of banks that are bound by the rules of an inter-bank clearing system may, from time to time, by agreement in writing, determine that subsection (1)(b)(iii) shall apply in relation to such cheques or such classes of cheques as may be specified in the agreement.
- (5) Nothing in section 45(2) of the Bills of Exchange Act 1908 applies to a cheque.

Section 7D: inserted, on 30 June 1995, by section 2 of the Bills of Exchange Amendment Act 1995 (1995 No 35).

7E Liability of paying bank

- (1) This section applies to a cheque that has been presented for payment in accordance with section 7D(1)(b)(iii).
- (2) A paying bank that pays a cheque to which this section applies is not negligent and does not act otherwise than in the ordinary course of business by reason only of having determined, by an agreement entered into under subsection (4) of section 7D, that subsection (1)(b)(iii) of that section shall apply in relation to that cheque or to a class of cheques that includes that cheque.
- (3) Except as provided in subsection (2), a paying bank that pays a cheque to which this section applies is not relieved from any liability to which it would have been subject if the cheque had been presented otherwise than in accordance with section 7D(1)(b)(iii).
- (4) Without limiting subsection (3), a paying bank that pays a cheque to which this section applies shall be treated as having been required to make such inquiries and take such action as would have been required if the cheque had been presented for payment in accordance with section 7D(1)(b)(i) or (ii).

Section 7E: inserted, on 30 June 1995, by section 2 of the Bills of Exchange Amendment Act 1995 (1995 No 35).

8 Repeal and saving

- (1) Section 82 of the principal Act is hereby repealed.

- (2) Where in any enactment a reference is made to section 82 of the principal Act, the reference shall, with the necessary modifications, be deemed to be a reference to this Act.

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Notes**1 General**

This is a reprint of the Cheques Act 1960. The reprint incorporates all the amendments to the Act as at 25 January 2005, as specified in the list of amendments at the end of these notes.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the reprint are also included, after the principal enactment, in chronological order. For more information, see <http://www.pco.parliament.govt.nz/reprints/>.

2 Status of reprints

Under section 16D of the Acts and Regulations Publication Act 1989, reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by the amendments to that enactment. This presumption applies even though editorial changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in the reprint.

This presumption may be rebutted by producing the official volumes of statutes or statutory regulations in which the principal enactment and its amendments are contained.

3 How reprints are prepared

A number of editorial conventions are followed in the preparation of reprints. For example, the enacting words are not included in Acts, and provisions that are repealed or revoked are omitted. For a detailed list of the editorial conventions, see <http://www.pco.parliament.govt.nz/editorial-conventions/> or Part 8 of the *Tables of New Zealand Acts and Ordinances and Statutory Regulations and Deemed Regulations in Force*.

4 Changes made under section 17C of the Acts and Regulations Publication Act 1989

Section 17C of the Acts and Regulations Publication Act 1989 authorises the making of editorial changes in a reprint as set out in sections 17D and 17E of that Act so that, to the extent permitted, the format and style of the reprinted

enactment is consistent with current legislative drafting practice. Changes that would alter the effect of the legislation are not permitted.

A new format of legislation was introduced on 1 January 2000. Changes to legislative drafting style have also been made since 1997, and are ongoing. To the extent permitted by section 17C of the Acts and Regulations Publication Act 1989, all legislation reprinted after 1 January 2000 is in the new format for legislation and reflects current drafting practice at the time of the reprint.

In outline, the editorial changes made in reprints under the authority of section 17C of the Acts and Regulations Publication Act 1989 are set out below, and they have been applied, where relevant, in the preparation of this reprint:

- omission of unnecessary referential words (such as “of this section” and “of this Act”)
- typeface and type size (Times Roman, generally in 11.5 point)
- layout of provisions, including:
 - indentation
 - position of section headings (eg, the number and heading now appear above the section)
- format of definitions (eg, the defined term now appears in bold type, without quotation marks)
- format of dates (eg, a date formerly expressed as “the 1st day of January 1999” is now expressed as “1 January 1999”)
- position of the date of assent (it now appears on the front page of each Act)
- punctuation (eg, colons are not used after definitions)
- Parts numbered with roman numerals are replaced with arabic numerals, and all cross-references are changed accordingly
- case and appearance of letters and words, including:
 - format of headings (eg, headings where each word formerly appeared with an initial capital letter followed by small capital letters are amended so that the heading appears in bold, with only the first word (and any proper nouns) appearing with an initial capital letter)
 - small capital letters in section and subsection references are now capital letters
- schedules are renumbered (eg, Schedule 1 replaces First Schedule), and all cross-references are changed accordingly
- running heads (the information that appears at the top of each page)

- format of two-column schedules of consequential amendments, and schedules of repeals (eg, they are rearranged into alphabetical order, rather than chronological).

5 *List of amendments incorporated in this reprint
(most recent first)*

Bills of Exchange Amendment Act 1995 (1995 No 35)

Public Finance Act 1989 (1989 No 44): sections 83(7), 87

Public Finance Act 1977 (1977 No 65): section 160(1)