

NORFOLK



ISLAND

BILLS OF EXCHANGE ACT 1971

Act No. 7 of 1971

An Act to amend the *Bills of Exchange Act 1961*.

I, THE GOVERNOR-GENERAL in and over the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Act under the *Norfolk Island Act 1957-1969*.

Dated this eighteenth day of November 1971.

Paul Hasluck
Governor-General.

By His Excellency's Command,
C.E. BARNES
Minister of State for External Territories.

Short title and citation

1. (1) This Act may be cited as the *Bills of Exchange Act 1971*.
- (2) The *Bills of Exchange Act 1961* is in this Act referred to as the Principal Act.
- (3) The Principal Act, as amended by this Act, may be cited as the *Bills of Exchange Act 1961-1971*.

Parts

2. Section 3 of the Principal Act is amended by inserting after the words and figures –

“Division 2 – Crossed Cheques (Sections 80-87).”

the following words and figures:-

“Division 3 – Other Provisions relating to Cheques (Sections 87A-87D).”

Definitions

3. Section 4 of the Principal Act is amended by omitting from the definition of “holder” the word “endorsee” and inserting in its stead the word “indorsee”.

Protection to collecting banker

4. Section 86 of the Principal Act is repealed.

5. After section 87 of the Principal Act the following Division is inserted in Part 3 —

“Division 3 – Other Provisions relating to Cheques

Protection of bankers paying unindorsed or irregularly indorsed cheques or drafts

87A. (1) Where a banker in good faith and in the ordinary course of business pays to another banker a cheque drawn on the first-mentioned banker that is not indorsed, is irregularly indorsed or has been indorsed without authority —

- (a) the first-mentioned banker does not, in paying the cheque, incur any liability by reason only of the absence of, or irregularity in, indorsement or his failure to concern himself with the existence of authority for indorsement; and
- (b) he shall be deemed to have paid the cheque in due course.

(2) Where a banker in good faith and in the ordinary course of business pays to another banker a draft drawn by the first-mentioned banker upon himself and payable on demand, whether the draft is payable at the head office or at some other office of the banker —

- (a) the first-mentioned banker does not, in paying the draft, incur any liability by reason only of the absence of, or irregularity in, indorsement or his failure to concern himself with the existence of authority for indorsement; and
- (b) the payment discharges the draft.

(3) For the purposes of the last two preceding subsections, a banker who —

- (a) has paid a cheque drawn on him or a draft drawn by him upon himself; and
- (b) has credited the account of a customer with the amount of the cheque or draft,

shall be deemed to have paid the cheque or draft to another banker.

Payment of unindorsed cheque or draft as evidence of receipt by payee

87B. (1) An unindorsed cheque payable to order that appears to have been paid by the banker on whom it is drawn is evidence of the receipt by the payee of the sum payable by the cheque.

(2) The last preceding sub-section applies in relation to a draft drawn by a banker upon himself and payable on demand, whether the draft is payable at the head office or at some other office of the banker, as it applies in relation to a cheque.

Protection of bankers collecting payment of cheques, etc

87C. (1) Where —

- (a) a banker in good faith and without negligence —
 - (i) receives payment for a customer of a cheque; or
 - (ii) having credited a customer's account with the amount of a cheque, receives payment of the cheque for himself; and
- (b) the customer has no title, or has a defective title, to the cheque,

the banker does not incur any liability to the true owner of the cheque by reason only of having received payment of the cheque.

(2) Subject to the next succeeding sub-section, 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 a cheque.

(3) The last preceding subsection does not apply in relation to a cheque unless the name appearing on the cheque as the name of the payee —

- (a) is the same as the name of the customer; or
- (b) is so similar to the name of the customer that it was reasonable, in all the circumstances, for the banker to assume that the customer was the person intended by the drawer to be the payee.

(4) This section applies in relation to a draft drawn by a banker upon himself and payable on demand, whether the draft is payable at the head office or at some other office of the banker, as it applies in relation to a cheque.

Rights of banker collecting cheque not indorsed by payee

87D. A banker who gives value for, or has a lien on, a cheque payable to order that the payee, without indorsing the cheque, delivers to the banker for collection for the payee has such rights (if any) as he would have had if, upon delivery of the cheque to him, the payee had indorsed it in blank.”.

Notified Norfolk Island Government Gazette, 25 November 1971.

This enactment amends Act No. 3 of 1961.

Printed on the authority of the Administrator.

© Norfolk Island Government 2007

The Copyright Act 1968 of the Commonwealth of Australia permits certain reproduction and publication of this legislation. For reproduction or publication beyond that permitted by the Act, written permission must be sought from the Legislative Counsel, Administration of Norfolk Island, Norfolk Island, South Pacific 2899.