

NORFOLK



ISLAND

CHEQUES (DUTY) ACT 1983

Act No. 4 of 1984

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Cheques (Duty) Act 1983

Act No. 4 of 1984

An Act to impose a duty on certain cheques and cheque forms

[Assented to 1 March 1984]

BE IT ENACTED by the Legislative Assembly of Norfolk Island
as follows—

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the *Cheques (Duty) Act 1983*.

Commencement

2. (1) This Act shall come into operation on a date fixed by the Administrator by notice published in the Gazette.

- (2) The Administrator may specify different commencement dates in respect of different Parts of this Act.

Interpretation

3. In this Act —

“authorised cheque form” means a cheque form supplied or used by a banker pursuant to an authority granted under Part 3;

“cheque” means a bill of exchange drawn on a banker and payable on demand and includes an instrument of the kind known as a bank cheque but does not include an instrument of the kind known as a bank draft or traveller’s cheque;

“cheque form” means a form that, when completed and signed, would be a cheque;

“stamp” means a postage stamp overprinted or marked as mentioned in section 6.

PART 2 – DUTY ON CHEQUES

Duty

4. (1) Subject to this Act, a duty of 20 cents is imposed upon each cheque payable at a branch of a banker in Norfolk Island.

- (2) In this Part, “duty” means the duty imposed by this section.

Exemptions

5. Duty is not imposed upon a cheque drawn —

- (a) by the Commonwealth, the Administration or a body established for public purposes under an enactment;

- (b) before the date of commencement of this Act;
- (c) upon an authorised cheque form; or
- (d) by an organisation or body declared by the executive member to be an organisation or body to which this paragraph applies.

Use of postage stamps for payment of duty

6. (1) The Administration may cause postage stamps having a face value of 20 cents each to be overprinted or otherwise marked with the words “Cheque Duty”, or with such other words as the executive member determines, and to be placed on sale at their face value.

(2) A postage stamp so overprinted or marked may not be used for the payment of postage.

Liability to duty

7. (1) Duty upon a cheque is payable by the drawer of the cheque forthwith upon the drawing of the cheque.

(2) The drawer of a cheque shall not fail to pay the duty imposed by this Part.

Penalty: 4 penalty units.

Payment of duty

8. (1) Payment of duty upon a cheque shall be denoted by affixing a stamp to the cheque.

(2) Where a stamp is affixed to a cheque pursuant to this section, the person affixing the stamp shall, immediately after affixing it, cancel the stamp by writing in ink on or across the stamp —

- (a) his name or initials;
- (b) the name or initials of the drawer of the cheque, being a firm or company; or
- (c) the date on which the stamp was affixed.

Penalty: 1 penalty unit.

(3) Where —

- (a) a cheque is liable to duty; and
- (b) a stamp is not affixed to the cheque pursuant to subsection (2); and
- (c) the cheque comes into the hands of a holder in Norfolk Island,

the holder shall forthwith affix a stamp to the cheque and cancel the stamp in accordance with subsection (2).

Penalty: 1 penalty unit.

- (4) Where —
- (a) a cheque is liable to duty; and
 - (b) there is affixed to the cheque a stamp that has not been cancelled in accordance with subsection (2); and
 - (d) the cheque comes into the hands of a holder in Norfolk Island,
- the holder shall forthwith cancel the stamp in accordance with subsection (2).

Penalty: 1 penalty unit.

(5) In this section, “holder”, in relation to a cheque, means the payee or an endorsee in possession of the cheque or, in the case of a cheque that is payable to bearer, the person in possession of the cheque.

PART 3 – AUTHORISED CHEQUE FORMS

Authority to bankers

9. (1) A banker carrying on business in Norfolk Island may apply to the executive member in writing for an authority under this section.

(2) Upon application under subsection (1), the executive member may, by instrument under his hand, authorise the banker to use and to supply to customers of the banker cheque forms bearing writing or the impression of a stamp in accordance with a style set out in the instrument.

(3) An authority shall not be granted under subsection (2) unless the banker has given to the Administration an undertaking in writing, in accordance with a form approved by the executive member, to pay to the Administration the sum of 20 cents in respect of each cheque form used by that banker or supplied by that banker to a customer.

- (4) In this Part —
- “authorised banker” means a banker in respect of whom an authority under this section is in force; and
- “duty” means amounts payable under an undertaking given as mentioned in subsection (3).

Revocation of authority

10. (1) Where an authorised banker fails to comply with a provision of this Act applicable to him or fails to pay any sum payable by him under an undertaking given by him as mentioned in subsection 9(3), the executive member may by instrument served on the banker, revoke an authority given to the banker under section 9.

(2) The banker may, within 21 days after service of the notice of revocation, appeal to the Supreme Court against the revocation on the ground that the failure to comply was not such as to warrant the revocation the authority.

(3) The executive member shall be made the respondent to an appeal under subsection (2).

(4) On the hearing of the appeal the Supreme Court may confirm or set aside the revocation of the authority and may make such order (if any) as it thinks fit with respect to costs.

(5) The executive member may, at any time, revoke an authority upon the application, or with the consent of, the banker.

(6) The revocation of an authority does not affect any liability of the banker in respect of the authority or under an undertaking given by him as mentioned in subsection 9(3).

Unauthorised issue of cheque forms

11. A banker shall not supply or use a cheque form bearing writing or the impression of a stamp reasonably capable of being taken to be writing or the impression of a stamp in accordance with a style approved under subsection 9(2), except in pursuance of an authority granted to him under that subsection

Penalty: 50 penalty units.

Conditions of authority

12. An authorised banker shall —

- (a) maintain adequate control over the printing, stamping, supply and use of all cheque forms of the banker; and
- (b) keep proper records in relation to those cheque forms.

Cheques on authorised forms

13. A person shall not draw a cheque on paper that bears writing or the impression of a stamp reasonably capable of being taken to have been written or impressed in accordance with a style approved under subsection 9(2) knowing it to be paper that is not an authorised cheque form.

Penalty: 4 penalty units.

Returns by authorised bankers

14. (1) An authorised banker shall, not later than the 28th day of each month —

- (a) furnish to the executive member a return of all authorised cheque forms supplied or used by the banker during the preceding month; and
- (b) pay to the Administration the duty payable in respect of those cheque forms.

(2) A return under this section shall be made in such form as the executive member directs and shall contain such particulars as the executive member requires.

Recovery of duty

15. Duty is a debt due from the banker to the Administration and may be recovered by the Administration in any court of competent jurisdiction.

Recovery by banker

16. A banker who has paid or is liable to pay an amount as duty in respect of a cheque form supplied by him to a customer may recover that amount from the customer.

Refund or remission of duty

17. Where the executive member is satisfied that a customer of a banker to whom the banker has supplied an authorised cheque form has returned the cheque form in an unused or unusable condition, the Administration shall —

- (a) if the banker has paid duty in respect of the cheque form – refund the amount of duty so paid; and
- (b) if duty has not been so paid – remit the amount of duty payable in respect of the cheque form.

PART 4**Transitional provisions**

18. (1) The executive member may include in an instrument under subsection 9(2) an authority to the banker to stamp on, or apply to, the cover of books of cheque forms a marking in accordance with a style approved by the executive member and specified in the instrument.

(2) Where an authority is so given, the cheque forms contained in a book so marked and supplied to a customer not later than 6 months after the date of commencement of this Act shall be deemed to be authorised cheque forms.

Regulations

19. The Administrator may make Regulations, not inconsistent with this Act, prescribing all matters necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Notified Gazette No. 10, 8 March 1984.

Parts 1, 3 and 4 commenced on 16 April 1984. Part 2 commenced on 1 May 1984. (Commencement notice published in Gazette No. 16, 12 April 1984.)

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