



ANALYSIS

<p>Title</p> <p>1. Short Title and commencement</p> <p>2. Protection of bankers paying unindorsed or irregularly indorsed cheques</p> <p>3. Rights of bankers collecting cheques not indorsed by holders</p>	<p>4. Unindorsed cheques as evidence of payment</p> <p>5. Protection of bankers collecting payment of cheques</p> <p>6. Application of certain provisions of principal Act</p> <p>7. Effect of Act</p> <p>8. Repeal and saving</p>
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1960, No. 17

An Act to amend the law relating to cheques and certain other instruments

[30 September 1960]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

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 the first day of January, nineteen hundred and sixty-one.

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 the Public Account or any other Government account under Part III, Part IV, or Part VI of the Public Revenues Act 1953 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. .

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 of this Act 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.

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.
