

BILLS OF EXCHANGE AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill implements (by *clauses 4 to 7*) two recommendations of the Report of the Working Party on Negotiable Instruments which, in the light of events related to the collapse of the companies known as the Securitibank Group, was appointed to consider the law and practice relating to negotiable instruments.

This Bill also abolishes (by *clause 3*) the provision for “days of grace” made in section 14 (a) of the principal Act.

Clause 1 relates to the Short Title and commencement. The Act is to come into force on 1 January 1980.

Clause 2 inserts into section 2 of the principal Act the definitions of the terms “business day” and “non-business day” that were enacted by section 12 (1) of the Statutes Amendment Act 1946. This is done with a view to the eventual repeal of the remaining Statutes Amendment Acts.

Clause 3 does away with the 3 days (called “days of grace”) that at present apply, unless negated, in respect of all bills of exchange and promissory notes not payable on demand. Statutory provision for such days was abolished in the United Kingdom by section 3 (2) of the Banking and Financial Dealings Act 1971.

Bills and notes made before 1 January 1980 are not affected.

Clause 4: Under the Bills of Exchange Act 1908 an omission in complying with certain rules relating to the presentation and the dishonour of bills of exchange has the effect of discharging the drawer and the indorsers from liability. This clause mitigates the rigour of this provision by providing that the drawer and indorsers will be discharged from liability by such an omission only to the extent that they are prejudiced by the omission.

Clause 5 amends the rules relating to presentment for acceptance of a bill of exchange.

Subclause (1) provides that, where the drawee is a body corporate that is being wound up, presentment may be made to the liquidator.

Subclause (2) excuses presentment for acceptance, and enables a bill to be treated as dishonoured by non-acceptance, where the drawee is a body corporate that is being wound up.

Clause 6 amends the rules relating to presentment for payment of a bill of exchange. The clause inserts new paragraphs which provide that—

- (a) Where the drawee or acceptor of the bill is bankrupt, presentment may be made to his assignee:
- (b) Where the drawee or acceptor of the bill is a body corporate that is being wound up, presentment may be made to the liquidator.

Clause 7 is new in that it dispenses with the need for presentment for payment of a bill of exchange where the party to whom presentment should be made is—

- (a) A bankrupt; or
- (b) A body corporate that is being wound up.

Clause 8, which is related to *clause 2*, effects a repeal that is designed to improve the form of the statute book.

Hon. Mr McLay

BILLS OF EXCHANGE AMENDMENT

ANALYSIS

Title	5. Rules as to presentment for acceptance, and excuses for non-presentment
1. Short Title and commencement	6. Rules as to presentment for payment
2. Interpretation	7. Excuses for delay or non-presentment for payment
3. Computation of time of payment	8. Repeal and saving
4. Liability continues except to extent that a party has been prejudiced by an omission	

A BILL INTITULED

An Act to amend the Bills of Exchange Act 1908

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

1. **Short Title and commencement**—(1) This Act may be cited as the Bills of Exchange Amendment Act 1979, and shall be read together with and deemed part of the Bills of Exchange Act 1908* (hereinafter referred to as the principal
10 Act).

(2) This Act shall come into force on the 1st day of January 1980.

*1957 Reprint, Vol. 1, p. 545
Amendments: 1960, No. 17; 1963, No. 75

2. Interpretation—Section 2 of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“‘Business day’ means any day that is not a non-business day: 5

“‘Non-business day’ means any Saturday or Sunday or any bank holiday (not being a part holiday) within the meaning of the Banking Act 1908; and includes, in respect of any bank premises, every day on which those premises are not open for business:” 10

3. Computation of time of payment—(1) Section 14 of the principal Act is hereby amended by repealing paragraph (a) (as amended by section 13 of the Statutes Amendment Act 1946), and substituting the following paragraph: 15

“(a) The bill is due and payable in all cases on the last day of the time of payment as fixed by the bill or, if that day is a non-business day, on the next following business day:” 15

(2) Section 13 of the Statutes Amendment Act 1946 is hereby consequentially repealed. 20

(3) In respect of bills drawn and notes made before the 1st day of January 1980, the principal Act shall have effect as if this section had not been enacted.

4. Liability continues except to extent that a party has been prejudiced by an omission—(1) Section 40 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection: 25

“(2) If he does not do so, the drawer and all indorsers prior to that holder are discharged to the extent that they are prejudiced by the omission.” 30

(2) Section 42 of the principal Act is hereby amended by adding, after the words “drawer and indorsers”, the words “to the extent that they are prejudiced by the omission”.

(3) Section 45 (1) of the principal Act is hereby amended by adding, after the words “shall be discharged”, the words “to the extent that they are prejudiced by the omission”. 35

(4) Section 48 of the principal Act is hereby amended by inserting, after the words "is discharged", the words "to the extent that he is prejudiced by the omission".

5 (5) Section 51 (2) of the principal Act is hereby amended by adding the words "to the extent that they are prejudiced by the omission".

5. Rules as to presentment for acceptance, and excuses for non-presentment—(1) Section 41 (1) of the principal Act is hereby amended by inserting, after paragraph (d), the
10 following paragraph:

"(da) Where the drawee is a body corporate that is being wound up, presentment may be made to the liquidator:".

(2) Section 41 (2) of the principal Act is hereby amended
15 by inserting, after paragraph (f), the following paragraph:

"(fa) Where the drawee is a body corporate that is being wound up:".

6. Rules as to presentment for payment—Section 45 (2) of the principal Act is hereby amended by inserting, after
20 paragraph (g), the following paragraphs:

"(ga) Where the drawee or acceptor of the bill is bankrupt, presentment may be made to his assignee.

"(gb) Where the drawee or acceptor of the bill is a body
25 corporate that is being wound up, presentment may be made to the liquidator."

7. Excuses for delay or non-presentment for payment—Section 46 (2) of the principal Act is hereby amended by repealing paragraphs (c) and (d), and substituting the
30 following paragraphs:

"(ba) Where the drawee is bankrupt:

"(bb) Where the drawee is a body corporate that is being wound up:

"(c) As regards the drawer,—

35 "(i) Where the drawee or acceptor is not bound, as between himself and the drawer, to accept or pay the bill, and the drawer has no reason to believe that the bill would be paid if presented; or

"(ii) Where the drawer is bankrupt; or

40 "(iii) Where the drawer is a body corporate that is being wound up:

“(d) As regards an indorser,—

“(i) Where the bill was accepted or made for the accommodation of that indorser, and he has no reason to believe that the bill would be paid if presented; or 15

“(ii) Where that indorser is bankrupt; or

“(iii) Where that indorser is a body corporate that is being wound up:”.

8. Repeal and saving—(1) Section 12 of the Statutes Amendment Act 1946 is hereby repealed. 10

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal effected by subsection (1) of this section shall not affect the amendments made by subsection (2) of section 12 of the Statutes Amendment Act 1946 to section 93 of the principal Act. 15