



Isle of Man

Ellan Vannin

AT 4 of 2017

**BILLS OF EXCHANGE (AMENDMENT) ACT
2017**

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BILLS OF EXCHANGE (AMENDMENT) ACT 2017

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AN ACT to amend the Bills of Exchange Act 1883; and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

1 Short title

The short title of this Act is the Bills of Exchange (Amendment) Act 2017.

2 Commencement

- (1) This Act comes into operation on such day as the Treasury may by order appoint.
- (2) An order under subsection (1) may include such consequential, incidental, supplemental and transitional provision as appears to the Treasury to be expedient.

3 Expiry

- (1) This Act is repealed on the day following its promulgation, or the day following the coming into operation of the last of its provisions, whichever is later.
- (2) Subsection (1) does not—
 - (a) affect the continuing effect of the amendments made by section 4; or
 - (b) revive anything repealed by the previous operation of the Act.

4 Electronic paying in of cheques etc

P2015/26/13

- (1) The *Bills of Exchange Act 1883* is amended as follows.

(2) After section 89 insert—

PART 4A — PRESENTMENT OF CHEQUES AND OTHER INSTRUMENTS BY ELECTRONIC MEANS

89A Presentment of instruments by electronic means

P1889/61/89A

(1) Presentment for payment of an instrument to which this section applies may be effected by provision of an electronic image of both faces of the instrument, instead of by presenting the physical instrument, if the person to whom presentment is made accepts the presentment as effective.

This is subject to regulations under subsection (2) and to section 89C.

(2) The Treasury may by regulations prescribe circumstances in which subsection (1) does not apply.

(3) Regulations under subsection (2) may in particular prescribe circumstances by reference to—

- (a) descriptions of instrument;
- (b) arrangements under which presentment is made;
- (c) descriptions of persons by or to whom presentment is made;
- (d) descriptions of persons receiving payment or on whose behalf payment is received.

(4) Where presentment for payment is made under subsection (1) the following do not apply—

- (a) any requirement—
 - (i) that the physical instrument must be exhibited, presented or delivered on or in connection with presentment or payment (including after presentment or payment or in connection with dishonour for non-payment), or
 - (ii) as to the day, time or place on or at which presentment of the physical instrument may be or is to be made, and
- (b) any other requirement which is inconsistent with subsection (1).

(5) Subsection (4) does not affect any requirement as to the latest time for presentment.

(6) References in subsections (4) and (5) to a requirement are to a requirement or prohibition, whether imposed by or under any enactment, by a rule of law or by the instrument in question.

(7) Where an instrument is presented for payment under this section—

(a) any banker providing the electronic image,

(b) any banker to whom it is provided, and

(c) any banker making payment of the instrument as a result of provision of the electronic image,

are subject to the same duties in relation to collection and payment of the instrument as if the physical instrument had been presented.

This is subject to any provision made by or under this Part.

89B Instruments to which section 89A applies

P1882/61/89B: sub (2) derived from P2009/1/208.

(1) Subject to subsection (2), section 89A applies to—

(a) a cheque, or

(b) any other bill of exchange or any promissory note or other instrument—

(i) which appears to be intended by the person creating it to enable a person to obtain payment from a banker indicated in it of the sum so mentioned,

(ii) payment of which requires the instrument to be presented, and

(iii) which, but for section 89A, could not be presented otherwise than by presenting the physical instrument.

(2) Section 89A does not apply to any banknote, that is to say a promissory note, bill of exchange or other document which—

(a) records an engagement to pay money,

(b) is payable to the bearer on demand, and

(c) is designed to circulate as money.

(3) The reference in subsection (1) to the person creating an instrument is—

(a) in the case of a bill of exchange, a reference to the drawer;

(b) in the case of a promissory note, a reference to the maker.

(4) For the purposes of subsection (1)(b)(i) an indication may be by code or number and need not indicate that payment is intended to be obtained from the banker.

89C Banker's obligation in relation to accepting physical instrument for presentment

P1882/61/89C

Provision of an electronic image of an instrument does not constitute presentment of the instrument under section 89A if the arrangements between—

- (a) the banker authorised to collect payment of the instrument on behalf of a customer, and
- (b) that customer,

do not permit the customer to pay in the physical instrument but instead require an electronic image to be provided (whether to that banker or to any other person).

89D Copies of instruments and evidence of payment

(1) The Treasury may by regulations make provision for—

- (a) requiring a copy of an instrument paid as a result of presentment under section 89A to be provided, on request, to the creator of the instrument by the banker who paid the instrument;
- (b) a copy of an instrument provided in accordance with the regulations to be evidence of receipt by a person identified in accordance with the regulations of the sum payable by the instrument.

(2) Regulations under subsection (1)(a) may in particular—

- (a) prescribe the manner and form in which a copy is to be provided;
- (b) require the copy to be certified to be a true copy of the electronic image provided to the banker making the payment on presentment under section 89A;
- (c) provide for the copy to be accompanied by prescribed information;
- (d) require any copy to be provided free of charge or permit charges to be made for the provision of copies in prescribed circumstances.

(3) The reference in subsection (1)(a) to the creator of the instrument is—

- (a) in the case of a bill of exchange, a reference to the drawer;
- (b) in the case of a promissory note, a reference to the maker.

89E Compensation in cases of presentment by electronic means

P1882/61/89E

- (1) The Treasury may by regulations make provision for the responsible banker to compensate any person for any loss of a kind specified by the regulations which that person incurs in connection with electronic presentment or purported electronic presentment of an instrument.
- (2) In this section “electronic presentment or purported electronic presentment of an instrument” includes—
 - (a) presentment of an instrument to which section 89A applies under that section;
 - (b) presentment of any other instrument by any means involving provision of an electronic image by which it may be presented for payment;
 - (c) purported presentment for payment by any means involving provision of an electronic image of an instrument that may not be presented for payment in that way;
 - (d) provision, in purported presentment for payment, of—
 - (i) an electronic image that purports to be, but is not, an image of a physical instrument (including an image that has been altered electronically), or
 - (ii) an electronic image of an instrument which has no legal effect; or
 - (e) provision, in presentment or purported presentment for payment, of an electronic image which has been stolen.
- (3) In this section, the “responsible banker”, in relation to electronic presentment or purported electronic presentment of an instrument, means—
 - (a) the banker who is authorised to collect payment of the instrument on a customer’s behalf, or
 - (b) if the holder of the instrument is a banker, that banker.
- (4) In this section—
 - (a) references to an instrument include references to an instrument which has no legal effect (whether because it has been fraudulently altered or created, or because it has been discharged, or otherwise);
 - (b) in relation to an electronic image which is not an image of a physical instrument, references to the instrument are to a purported instrument (of which it purports to be an image); and

- (c) in relation to an instrument which is not a bill of exchange or promissory note, references to the holder are to the payee or indorsee of the instrument who is in possession of it or, if it is payable to bearer, the person in possession of it.
- (5) Regulations under this section may in particular make provision for—
 - (a) the responsible banker to be required to pay compensation irrespective of fault;
 - (b) the amount of compensation to be reduced by virtue of anything done, or any failure to act, by the person to whom compensation is payable.
- (6) Nothing in this section or regulations under it is to be taken to—
 - (a) prevent the responsible banker claiming a contribution from any other person, or
 - (b) affect any remedy available to the responsible banker in contract or otherwise.
- (7) Except so far as regulations under this section provide expressly, nothing in this section or regulations under it is to be taken to affect any liability of the responsible banker which exists apart from this section or any such regulations.

89F Supplementary

P1882/61/89F

- (1) Regulations under this Part may—
 - (a) include incidental, supplementary and consequential provision;
 - (b) make transitory or transitional provision or savings;
 - (c) make different provision for different cases or circumstances or for different purposes;
 - (d) make provision subject to exceptions.
- (2) Regulations under this Part must not come into operation unless approved by Tynwald,
- (3) For the purposes of this Part, a banker collects payment of an instrument on behalf of a customer by—
 - (a) receiving payment of the instrument for the customer, or
 - (b) receiving payment of the instrument for the banker (but not as holder), having—
 - (i) credited the customer's account with the amount of the instrument, or

- (ii) otherwise given value to the customer in respect of the instrument.
- (4) Section 89E(4) applies for the purposes of subsection (3) in its application to section 89E. **22**.
- (3) In section 52 (bills of exchange: duties of holder on presentment and payment)—
 - (a) at the beginning of subsection (4) insert **66** Subject to Part 4A (presentment by electronic means), **22**; and
 - (b) omit subsection (5).
- (4) Omit section 74B (which provides for alternative means of presentment of cheque for payment by banker).
- (5) In section 87 (promissory notes: presentment for payment), at the end insert—
 - 66** (4) This section is subject to Part 4A (presentment by electronic means). **22**.
- (6) The amendments made by this section have effect in relation to presentment of instruments after it comes into force, including instruments created before that time.