



# Bills of Exchange Act 1882

1882 CHAPTER 61 45 and 46 Vict

## PART III

### CHEQUES ON A BANKER

#### 73 Cheque defined.

A cheque is a bill of exchange drawn on a banker payable on demand.

Except as otherwise provided in this Part, the provisions of this Act applicable to a bill of exchange payable on demand apply to a cheque.

#### Modifications etc. (not altering text)

- C1 S. 73 extended by [Finance Act 1939 \(c. 41\), s. 35\(2\)](#), S.I. 1957/2228 (1957 I, p. 801) and [National Loans Act 1968 \(c. 13\), s. 14\(7\)](#)

#### 74 Presentment of cheque for payment.

Subject to the provisions of this Act—

- (1) Where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or the person on whose account it is drawn had the right at the time of such presentment as between him and the banker to have the cheque paid and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of such banker to a larger amount than he would have been had such cheque been paid.
- (2) In determining what is a reasonable time regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case.
- (3) The holder of such cheque as to which such drawer or person is discharged shall be a creditor, in lieu of such drawer or person, of such banker to the extent of such discharge, and entitled to recover the amount from him.

*Status: Point in time view as at 16/04/1991. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Bills of Exchange Act 1882, Part III. (See end of Document for details)*

VALID FROM 28/11/1996

**[<sup>F1F1</sup>74A Presentment of cheque for payment: alternative place of presentment.**

Where the banker on whom a cheque is drawn—

- (a) has by notice published in the London, Edinburgh and Belfast Gazettes specified an address at which cheques drawn on him may be presented, and
- (b) has not by notice so published cancelled the specification of that address,

the cheque is also presented at the proper place if it is presented there.]

**Textual Amendments**

**F1** S. 74A inserted (28.11.96) by S.I. 1996/2993 art. 3.

VALID FROM 28/11/1996

**[<sup>F2</sup>74B Presentment of cheque for payment: alternative means of presentment by banker**

- (1) A banker may present a cheque for payment to the banker on whom it is drawn by notifying him of its essential features by electronic means or otherwise, instead of by presenting the cheque itself.
- (2) If a cheque is presented for payment under this section, presentment need not be made at the proper place or at a reasonable hour on a business day.
- (3) If, before the close of business on the next business day following presentment of a cheque under this section, the banker on whom the cheque is drawn requests the banker by whom the cheque was presented to present the cheque itself—
  - (a) the presentment under this section shall be disregarded, and
  - (b) this section shall not apply in relation to the subsequent presentment of the cheque.
- (4) A request under subsection (3) above for the presentment of a cheque shall not constitute dishonour of the cheque by non-payment.
- (5) Where presentment of a cheque is made under this section, the banker who presented the cheque and the banker on whom it is drawn shall be subject to the same duties in relation to the collection and payment of the cheque as if the cheque itself had been presented for payment.
- (6) For the purposes of this section, the essential features of a cheque are—
  - (a) the serial number of the cheque,
  - (b) the code which identifies the banker on whom the cheque is drawn,
  - (c) the account number of the drawer of the cheque, and
  - (d) the amount of the cheque is entered by the drawer of the cheque.]

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#### Textual Amendments

**F2** S. 74B inserted (28.11.1996) by [S.I. 1996/2993](#) art. 4

VALID FROM 28/11/1996

#### [<sup>F3F3</sup>74C Cheques presented for payment under section 74B: disapplication of section 52(4).

Section 52(4) above—

- (a) so far as relating to presenting a bill for payment, shall not apply to presenting a cheque for payment under section 74B above, and
- (b) so far as relating to a bill which is paid, shall not apply to a cheque which is paid following presentment under that section.]

#### Textual Amendments

**F3** [S.74C](#) inserted (28.11.1996) by [S.I. 1996/2993](#), [art. 4](#)

#### 75 Revocation of banker's authority.

The duty and authority of a banker to pay a cheque drawn on him by his customer are determined by—

- (1) Countermand of payment:
- (2) Notice of the customer's death.

- [<sup>F4</sup>75A
- (1) On the countermand of payment of a cheque, the banker shall be treated as having no funds available for the payment of the cheque.
  - (2) This section applies to Scotland only.]

#### Textual Amendments

**F4** S. 75A inserted (S.) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 30\)](#), [s. 11\(b\)](#)

### *Crossed Cheques*

#### 76 General and special crossings defined.

- (1) Where a cheque bears across its face an addition of—
  - (a) The words “and company” or any abbreviation thereof between two parallel transverse lines, either with or without the words “not negotiable”; or

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- (b) Two parallel transverse lines simply, either with or without the words “not negotiable”;  
that addition constitutes a crossing, and the cheque is crossed generally.
- (2) Where a cheque bears across its face an addition of the name of a banker, either with or without the words “not negotiable,” that addition constitutes a crossing, and the cheque is crossed specially and to that banker.

**Modifications etc. (not altering text)**

- C2** S. 76 extended by [Cheques Act 1957 \(c. 36, SIF 14\)](#), [s. 5](#), 1972/641, reg. 7(2), 1972/764, reg. 21(5), 1972/765, reg. 8(2) and 1976/2012, reg. 22(2)
- C3** S. 76 extended by [S.I. 1984/779](#), [reg. 7\(2\)](#)  
S. 76 extended by [S.I. 1991/1031](#), [reg. 7\(2\)](#)

**77 Crossing by drawer or after issue.**

- (1) A cheque may be crossed generally or specially by the drawer.
- (2) Where a cheque is uncrossed, the holder may cross it generally or specially.
- (3) Where a cheque is crossed generally the holder may cross it specially.
- (4) Where a cheque is crossed generally or specially, the holder may add the words “not negotiable.”
- (5) Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker for collection.
- (6) Where an uncrossed cheque, or a cheque crossed generally, is sent to a banker for collection, he may cross it specially to himself.

**Modifications etc. (not altering text)**

- C4** S. 77 extended by [Cheques Act 1957 \(c. 36, SIF 14\)](#), [s. 5](#) and [S.I. 1976/2012](#), [reg. 22\(2\)](#)
- C5** S. 77 subsections (1), (3), (4) and (5) and, so far as it relates to crossed cheques, subsection (6) of section 77, extended by [S.I. 1984/779](#), [reg. 7\(2\)](#)
- C6** S. 77(1)(3)-(5) and, so far as it relates to crossed cheques, (6) extended by [S.I. 1972/641](#), 764, 765

**78 Crossing a material part of cheque.**

A crossing authorised by this Act is a material part of the cheque; it shall not be lawful for any person to obliterate or, except as authorised by this Act, to add to or alter the crossing.

**Modifications etc. (not altering text)**

- C7** S. 78 extended by [Cheques Act 1957 \(c. 36, SIF 14\)](#), [s. 5](#), [S.I. 1972/641](#), reg.7(2), 1972/764, reg. 21(5), 1972/765, reg. 8(2) and 1976/2012, reg.22(2)
- C8** Ss. 78–81 extended by [S.I. 1984/779](#), [reg. 7\(2\)](#)

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## 79 Duties of banker as to crossed cheques.

(1) Where a cheque is crossed specially to more than one banker except when crossed to an agent for collection being a banker, the banker on whom it is drawn shall refuse payment thereof.

(2) Where the banker on whom a cheque is drawn which is so crossed nevertheless pays the same, or pays a cheque crossed generally otherwise than to a banker, or if crossed specially otherwise than to the banker to whom it is crossed, or his agent for collection being a banker, he is liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid.

Provided that where a cheque is presented for payment which does not at the time of presentment appear to be crossed, or to have had a crossing which has been obliterated, or to have been added to or altered otherwise than as authorised by this Act, the banker paying the cheque in good faith and without negligence shall not be responsible or incur any liability, nor shall the payment be questioned by reason of the cheque having been crossed, or of the crossing having been obliterated or having been added to or altered otherwise than as authorised by this Act, and of payment having been made otherwise than to a banker or to the banker to whom the cheque is or was crossed, or to his agent for collection being a banker, as the case may be.

### Modifications etc. (not altering text)

**C9** S. 79 extended by [Cheques Act 1957 \(c. 36, SIF 14\)](#), [s. 5](#), [S.I. 1972/641](#), reg.7(2), [1972/764](#), reg. 21(5), [1972/765](#), reg. 8(2) and [1976/2012](#), reg.22(2)

**C10** [Ss. 78–81](#) extended by [S.I. 1984/779](#), [reg. 7\(2\)](#)

## 80 Protection to banker and drawer where cheque is crossed.

Where the banker, on whom a crossed cheque is drawn, in good faith and without negligence pays it, if crossed generally, to a banker, and if crossed specially, to the banker to whom it is crossed, or his agent for collection being a banker, the banker paying the cheque, and, if the cheque has come into the hands of the payee, the drawer, shall respectively be entitled to the same rights and be placed in the same position as if payment of the cheque had been made to the true owner thereof.

### Modifications etc. (not altering text)

**C11** S. 80 extended by [Cheques Act 1957 \(c. 36, SIF 14\)](#), [s. 5](#), [S.I. 1972/641](#), reg.7(2), [1972/764](#), reg. 21(5), [1972/765](#), reg. 8(2) and [1976/2012](#), reg.22(2)

**C12** [Ss. 78–81](#) extended by [S.I. 1984/779](#), [reg. 7\(2\)](#)

## 81 Effect of crossing on holder.

Where a person takes a crossed cheque which bears on it the words “not negotiable,” he shall not have and shall not be capable of giving a better title to the cheque than that which the person from whom he took it had.

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**Modifications etc. (not altering text)**

- C13** S. 81 extended by [Cheques Act 1957 \(c. 36, SIF 14\)](#), **s. 5**, [S.I. 1972/641](#), reg.7(2), 1972/764, reg. 21(5), 1972/765, reg. 8(2) and 1976/2012, reg.22(2)
- C14** [Ss. 78–81](#) extended by [S.I. 1984/779](#), **reg. 7(2)**

VALID FROM 16/06/1992

**[81A** <sup>F5</sup>**Non-transferable cheques.**

- (1) Where a cheque is crossed and bears across its face the words “account payee” or “a/c payee”, either with or without the word “only”, the cheque shall not be transferable, but shall only be valid as between the parties thereto.
- (2) A banker is not to be treated for the purposes of section 80 above as having been negligent by reason only of his failure to concern himself with any purported indorsement of a cheque which under subsection (1) above or otherwise is not transferable.]

**Textual Amendments**

- F5** [S. 81A](#) inserted (16. 6. 1992) by [Cheques Act 1992 \(c. 32\)](#), **ss.1, 4(2)**.

**82** ..... <sup>F6</sup>

**Textual Amendments**

- F6** [S. 82](#) repealed by [Cheques Act 1957 \(c. 36\)](#), **Sch.**

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