



THE REPUBLIC OF KENYA

LAWS OF KENYA

THE CHEQUES ACT

CHAPTER 35

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CHAPTER 35

CHEQUES ACT

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CHAPTER 35**CHEQUES ACT**

[Date of assent: 26th June, 1968.]

[Date of commencement: 28th July, 1968.]

An Act of Parliament to make further provision in regard to the payment of cheques and certain other instruments

[Act No. 41 of 1968, Act No. 2 of 2002.]

1. Short title

This Act may be cited as the Cheques Act.

2. Interpretation

(1) In this Act—

"payee" does not include an endorsee under a special endorsement;

"prescribed instrument" means—

- (a) a cheque, including a cheque which either under section 81A of the Bills of Exchange Act (Cap. 27) or otherwise is not transferable;
- (b) a document issued by a customer of a banker which is not a bill of exchange but is intended to enable a person to obtain payment from the banker of the sum of money specified in the document; or
- (c) a draft drawn by a banker upon himself and payable on demand at an office of his bank; or
- (d) any other instrument which the Cabinet Secretary for the time being responsible for finance may specify by notice in the Gazette.

(2) Subject to subsection (1) of this section, this Act shall be read and construed as one with the Bills of Exchange Act (Cap. 27).

[Act No. 2 of 2002, Sch.]

3. Protection of collecting banker

(1) A banker who gives value for, or has a lien on, a cheque payable to order which the payee delivers to him for collection either without endorsing it or without endorsing it regularly has such rights, if any, as he would have had if upon delivery the payee had endorsed it regularly in blank.

(2) Where a banker, in good faith and without negligence and in the ordinary course of business—

- (a) receives payment for a customer of a prescribed instrument to which the customer has no title or has a defective title; or
- (b) having credited the customer's account with the amount of a prescribed instrument to which the customer has no title or a defective title, receives payment of the instrument for himself,

the banker does not incur any liability to the true owner of the instrument by reason only of his having received payment of it; and a banker is not to be treated for the purposes of this subsection as having been negligent by reason only that he has failed to concern himself with the absence of, or irregularity in, endorsement of a prescribed instrument of which the customer in question appears to be the payee.

4. Protection of paying banker

(1) Where a banker, in good faith and in the ordinary course of business, pays a prescribed instrument drawn on him to a banker, he does not in doing so incur any liability by reason only of the absence of, or irregularity in, endorsement of the instrument, and—

- (a) in the case of a cheque, he is deemed to have paid it in due course; and
- (b) in the case of any other prescribed instrument, the payment discharges the instrument.

(2) A prescribed instrument which is not endorsed but which appears to have been paid by the banker on whom it is drawn is evidence that the payee has been paid by the banker the sum of money specified in the instrument.

5. Saving

Nothing in this Act makes negotiable an instrument which apart from this Act is not negotiable.

6.*[Spent]***7.***[Spent]*

