

## THE CHEQUES ACT 1968

No. 41 of 1968

*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**

ENACTED by the Parliament of Kenya, as follows:—

Short title  
and  
commencement.

1. This Act may be cited as the Cheques Act 1968, and shall come into operation at the end of one month from the date of its publication in the Gazette.

Interpretation.

2. (1) In this Act—

“payee” does not include an endorsee under a special endorsement;

“prescribed instrument” means—

(a) a cheque; or

(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 Minister for the time being responsible for finance may specify by notice in the Gazette.

Cap. 27.

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

Protection of  
collecting  
banker.

3. (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. (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—

Protection of paying banker.

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

Saving.

6. Section 60 (1) of the Bills of Exchange Act is amended by adding at the end thereof the words “; and in this subsection “bill payable to order on demand” includes a prescribed instrument within the meaning of the Cheques Act 1968 which is payable to order.”

Amendment of section 60 of Cap. 27.

7. The Bills of Exchange Act is amended by substituting for sections 82 and 83 thereof a new section as follows—

Replacement of sections 82 and 83 of Cap. 27.

Provisions as to crossed cheques to apply to certain other instruments. 41 of 1968.

82. The foregoing provisions of this Part relating to the crossing of cheques and crossed cheques shall apply in relation to a prescribed instrument within the meaning of the Cheques Act 1968 (not being a cheque) as they apply to a cheque.