

- (7) For the purpose of this section, where the image of a cheque, or one or more of its electronic payment information presented is inaccurate, such presentation shall be a nullity.”.

5 **11.** Section 76 of the principal enactment is hereby repealed and the following section is substituted therefor:- Replacement of section 76 of the principal enactment

“General and special crossings defined. **76.** (1) Where a cheque bears across its face an addition of two parallel transverse lines, either with or without the words “not negotiable”, that addition constitutes a crossing, and the cheque is crossed generally.

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(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.”.

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12. Section 77 of the principal enactment is hereby amended as follows: - Amendment of section 77 of the principal enactment

- (1) by the repeal of subsection (4) of that section and the substitution therefor, of the following subsection: -

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“(4) Where a cheque is crossed generally or specially, the holder may add the words, “not negotiable”.”; and

- (2) in subsection (6) of that section, by the substitution for the words “to himself.”, of the words “to himself and such crossing for the purpose of collection may be placed either on the face or the rear of the cheque.”.

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13. Section 80 of the principal enactment is hereby amended as follows:-

Amendment
of section 80
of the
principal
enactment

- (1) by the renumbering of that section as subsection (1) of that section; and

- 5 (2) by the addition immediately after the renumbered subsection (1) of that section, of the following new subsection: -

10 “(2) The banker paying the cheque under subsection (1), shall not incur any liability by reason only of the absence of, or irregularity in, indorsement and the payment discharges the cheque.”.

14. Section 81 of the principal enactment is hereby repealed and the following section is substituted therefor: -

Replacement
of section 81
of the
principal
enactment

- 15 “Effect of **81.** (1) Where a person takes a crossed
crossing a
cheque with
words. 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
20 it had.

- 25 (2) Where a cheque is crossed or uncrossed 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, and shall only be valid as between the parties thereto.”.

15. Section 82 of the principal enactment is hereby amended in subsection (1) of that section as follows: -

Amendment
of section 82
of the
principal
enactment

(1) by the re-lettering of that subsection as paragraph (a) of that subsection; and

5 (2) by the addition immediately after the re-lettered paragraph (a) of that subsection, of the following new paragraph: -

10 “(b) A banker shall not to be treated for the purpose of paragraph (a) as having been negligent by reason only of his failure to concern himself with the absence of, or irregularity in, indorsement of a cheque.”.

16. The following new sections are hereby inserted immediately after section 82 of the principal enactment, and shall have effect as sections 82A, 82B, 82C, 82D, 82E and 82F of that enactment: -

Insertion of
new sections
82A, 82B,
82C, 82D, 82E
and 82F in
the principal
enactment

20 “Penalties in respect of dishonour of certain cheques.

82A. (1) Subject to the provisions of subsection (2), where any cheque drawn by a customer on an account maintained by him with a bank for payment of any amount of money to another person from that account for the discharge, in whole or in part, of any debt or other liability is returned by the bank unpaid owing to –

25 (a) the amount of money standing to the credit of that account being insufficient to honour the cheque;

30 (b) the amount of the cheque exceeding the amount arranged to be paid from that account by an agreement made with the bank;

(c) the drawer having issued a cheque from a closed account; or

5 (d) the drawer having countermanded a cheque issued by him without any legitimate reason in terms of subsection (3),

10 such person shall be deemed to have committed an offence and shall, on conviction, be liable to a fine equivalent to the amount of the cheque, or to imprisonment of either description for a term not exceeding two years, or to both such fine and imprisonment.

(2) The provisions of subsection (1) shall apply only if –

15 (a) the cheque has been presented to the drawee bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

20 (b) the payee or holder in due course of the cheque makes a demand for payment of the value of the returned cheque, in writing to the drawer of the cheque within ninety days of the receipt of information by him from the collecting bank or drawee bank, regarding the return of the cheque as unpaid; and

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5 (c) the drawer of the cheque fails to make the payment in response to such demand to the payee or holder in due course of the cheque, within ninety days of the date of the demand.

10 (3) Where a drawee bank has dishonoured a cheque by writing the words “refer to drawer”, “account closed” or “payment countermanded by drawer” on the cheque or such words are stated in a cheque return notification issued by a collecting bank, it shall be presumed that the cheque was dishonoured due to insufficiency of funds in the account of the drawer.

15 Institution of legal action. **82B.** The payee or holder in due course of a cheque which has been returned unpaid due to insufficiency of funds in the account of the drawer may institute legal action as the claimant within thirty days of the expiration of the period specified in paragraph (c) of subsection (2) of section 82A.

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Jurisdiction. **82C.** The jurisdiction to hear and determine an offence under this Ordinance shall be vested with the Magistrate’s Court within whose local jurisdiction -

25 (a) where the cheque is deposited for collection through the account of the payee or holder in due course of the cheque, the branch of the bank in which such payee or holder in due course maintains the account, is

30 situated; or