

C003-e

Amend the Bills of Exchange Ordinance.

Enacted by the Legislative Council.

1. Short title

This Ordinance may be cited as the Bills of Exchange (Amendment) Ordinance 2003.

2. Sections added

The Bills of Exchange Ordinance (Cap. 19) is amended by adding---

"73A. Presentment of cheque for payment: alternative means of presentment by banker

(1) For the purposes of the rules under section 45 as to the presentment of a bill for payment, the presentment of a cheque by a banker may be made by sending to the banker on whom the cheque is drawn, in the form of an electronic record, an image of both the front and back of the cheque and the essential information relating to the cheque, instead of being made in accordance with the rule specified in paragraph (c) of that section.

(2) If, before noon on the next business day following the day on which a cheque is presented under subsection (1), the banker on whom the cheque is drawn requests, in the manner agreed between him and the banker by whom the cheque is presented, that the cheque itself shall be presented---

(a) the presentment under subsection (1) shall be disregarded; and

(b) this section shall not apply to the subsequent presentment of the cheque.

(3) A request under subsection (2) that the cheque itself shall be presented shall not constitute dishonour of the cheque by non-payment.

(4) For the purposes of this section, the essential information relating to a cheque is---

(a) the serial number of the cheque assigned to it by the banker on whom the cheque is drawn;

(b) the code printed on the cheque which identifies the banker on whom the cheque is drawn;

(c) the account number of the account maintained by the drawer of the cheque with the banker on whom the cheque is drawn; and

(d) the amount of the cheque entered by the drawer of the cheque.

(5) In this section, "electronic record" (電子紀錄) has the same meaning as in the Electronic Transactions Ordinance (Cap. 553).

73B. Duties of holder as regards cheque presented under section 73A(1)

Section 52(4)---

(a) so far as it relates to presenting a bill for payment, shall not apply to

presenting a cheque for payment under section 73A(1); and

(b) so far as it relates to a bill which is paid, shall not apply to a cheque which is paid following presentment under section 73A(1).".

3. Heading amended

The heading of section 74 is amended by repealing "Presentment" and substituting "Delay in presentment".

4. Unindorsed cheques as evidence of payment

Section 85 is amended---

(a) by renumbering it as section 85(1);

(b) by adding---

"(2) A copy of an unindorsed cheque which appears to contain a statement made by the banker on whom the cheque is drawn stating that---

(a) the copy is a true copy of the image of the cheque received by him for the purposes of the presentment of the cheque for payment under section 73A(1); and

(b) he has made payment of the cheque to the banker by whom the presentment was made, is evidence of the receipt by the payee of the sum payable by the cheque.".

Explanatory Memorandum

The purpose of this Bill is to add a new section 73A to the Bills of Exchange Ordinance (Cap. 19) ("the Ordinance") to enable a cheque to be presented by a bank for payment by notification of certain information relating to the cheque by electronic means, rather than by physical presentment (clause 2).

2. Consequent upon the introduction of electronic presentment of cheques for payment, the Bill also---

(a) adds a new section 73B to the Ordinance to modify the application of section 52(4) of the Ordinance, which concerns the duties of holders of bills, to such presentment (clause 2); and

(b) amends section 85 of the Ordinance to facilitate proof of payment of unindorsed cheques that have been presented electronically (clause 4).