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Second Session Twelfth Parliament Republic of
Trinidad and Tobago

HOUSE OF REPRESENTATIVES

BILL

AN ACT to amend the Bills of Exchange Act,
Chap. 82:31

THE BILLS OF EXCHANGE (AMENDMENT) BILL, 2022

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

This Bill seeks to amend the Bills of Exchange Act, Chap. 82:31 to facilitate the implementation of an electronic cheque clearing system.

Clause 1 of the Bill would make provision for the short title of the proposed Act.

Clause 2 of the Bill would define the term “the Act” to mean the Bills of Exchange Act, Chap. 82:31.

Clause 3 of the Bill would provide for the inclusion of certain definitions in the interpretation section of the Act.

Clause 4 of the Bill would provide for a new section 74A which would allow a banker to specify by notice in the *Gazette*, an alternative place for the presentment of a cheque.

Clause 5 of the Bill would insert a new Part IIIA and provide for two new sections in the Act. New section 89A would provide for the way in which an electronic image of a cheque may be presented for payment, and consists of eleven subsections as follows:

- (a) subsection (1) would allow for banker to banker presentment of electronic images of cheques;
- (b) subsection (2) would provide that the presentment of a cheque need not be made at any particular time and place where an electronic image of the cheque is presented for payment;
- (c) subsection (3) would provide that certain requirements that relate to the physical presentment of cheques do not apply to the presentment of an electronic image of a cheque;
- (d) subsection (4), would provide that the latest time by which a physical cheque is required to be presented would apply to the presentment of an electronic image of the cheque;
- (e) subsection (5) would provide that references in subsections (3) and (4) to a requirement are to a requirement or prohibition, whether imposed by or under any written law or rule of law or by the cheque in question;

- (f) subsections (6) and (7) would make provision for the banker on whom a cheque is drawn to request the physical cheque and would also provide that such a request would not amount to the dishonouring of the cheque;
- (g) subsection (8) seeks to set out the essential features of a cheque for the purposes of its presentment by means of an electronic image;
- (h) subsection (9) would, in relation to the presentment of an electronic image of a cheque, maintain the same duties in relation to the collection and payment of cheques as if the physical cheque had been presented;
- (i) subsection (10) would provide that an electronic image of a cheque would be admissible as evidence; and
- (j) subsection (11) would provide that the retention of an electronic image of a cheque is equivalent to the retention of the physical cheque itself.

Clause 5 of the Bill also includes a new section 89B which would provide that in order for a banker to present an electronic image of a cheque for payment on behalf of its customer, the banker must first receive the physical cheque from its customer.

Clause 6 of the Bill would provide for a new section 97 to be inserted into the Act, to allow the Minister with responsibility for finance, on the recommendations of the Central Bank, to make Regulations. The section would also allow the Central Bank to issue Guidelines on any matter it considers necessary for the purposes of the Act.

THE BILLS OF EXCHANGE (AMENDMENT) BILL, 2022

Arrangement of Clauses

Clause

1. Short title
2. Interpretation
3. Section 2 amended
4. Section 74A inserted
5. Part IIIA inserted
6. Section 97 inserted

BILL

AN ACT to amend the Bills of Exchange Act,
Chap. 82:31

[, 2022]

ENACTED by the Parliament of Trinidad and Tobago as Enactment
follows:

1. This Act may be cited as the Bills of Exchange Short title
(Amendment) Act, 2022.

2. In this Act, “the Act” means the Bills of Exchange Interpretation
Act. Chap. 82:31

Section 2 amended

3. Section 2 of the Act is amended—

(a) by inserting after the definition of “bill”, the following definition:

“ “Central Bank” means the Central Bank of Trinidad and Tobago established under the Central Bank Act;”; and

Chap. 79:02

(b) by inserting after the definition of “issue”, the following definition:

“ “Minister” means the Minister with responsibility for finance;”.

Section 74A inserted

4. The Act is amended by inserting after section 74, the following section:

“Alternative
place of
presentation
of cheque

74A. Notwithstanding section 45—

(a) a banker may, by notice published in the *Gazette*—

(i) specify an address at which a cheque drawn on the banker may be presented; or

(ii) cancel an address specified under subparagraph (i); and

(b) a cheque drawn on a banker is presented at a proper place if it is presented at an address specified by the banker under paragraph (a)(i) and the banker has not cancelled that address under paragraph (a)(ii).”.

Part IIIA inserted

5. The Act is amended by inserting after Part III, the following Part:

“PART IIIA

PRESENTMENT OF CHEQUES BY ELECTRONIC MEANS

Presentment
of cheque by
electronic
means

89A. (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 means of an electronic image, instead of presenting the physical cheque itself.

(2) Where a cheque is presented for payment under this section, presentment need not be made at a proper place or at a reasonable hour on a business day.

(3) Where presentment for payment is made under subsection (1)—

(a) any requirement—

(i) that the physical cheque shall be exhibited, presented or delivered on or in connection with presentment or payment, including after presentment or payment, or in connection with dishonor for non-payment; or

(ii) as to the day, time or place on or at which presentment of the physical cheque may be or is to be made; or

(b) any other physical requirement which is inconsistent with subsection (1),

does not apply.

(4) Subsection (3) does not affect any requirement as to the latest time for presentment.

(5) References in subsections (3) and (4) to a requirement are to a requirement or prohibition, whether imposed by or under any written law or rule of law or by the cheque in question.

(6) Where, 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 physical 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 physical cheque.

(7) A request under subsection (6) for presentment of the physical cheque shall not constitute dishonour of the cheque by non-payment.

(8) For the purposes of this section, the essential features of a cheque are—

- (a) the serial number of the cheque assigned to it by the banker on whom the cheque is drawn;
- (b) the code which identifies the banker on whom the cheque is drawn;

- (c) the account number of the drawer of the cheque;
- (d) the amount of the cheque entered by the drawer of the cheque;
- (e) the signature of the drawer of the cheque;
- (f) the date of the cheque; and
- (g) any other feature which the Minister may, by Order subject to negative resolution of Parliament, prescribe.

(9) Where a cheque is presented for payment under this section—

- (a) any banker providing the electronic image;
- (b) any banker to whom the electronic image is provided; and
- (c) any banker making payment of the cheque as a result of the provision of an electronic image,

are subject to the same duties in relation to collection and payment of the cheque as if the physical cheque had been presented.

(10) An electronic image of a cheque presented under this section shall be admissible in evidence for all purposes for which the physical cheque would be admitted as evidence.

(11) Where a written law or rule of law requires that a cheque be retained, that requirement is, in relation to a cheque presented under this section, satisfied by retaining an electronic image of that cheque.

Obligation of
banker to
receive
physical
cheque for
payment

89B. Provision of an electronic image of a cheque does not constitute presentment of the cheque under section 89A, unless the banker authorised to collect payment of the cheque on behalf of a customer, first receives the physical cheque from that customer.”.

Section 97 inserted

6. The Act is amended by inserting after section 96, the following new section:

“Regulations
and
Guidelines

97. (1) The Minister may, on the recommendation of the Central Bank and subject to negative resolution of Parliament, make Regulations generally for the purposes of this Act.

(2) The Central Bank may issue Guidelines on any matter it considers necessary for the purposes of this Act.”.

Passed in the House of Representatives this
day of _____, 2022.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this _____ day of _____,
2022.

Clerk of the Senate

I confirm the above.

President of the Senate

No. 9 of 2022

SECOND SESSION
TWELFTH PARLIAMENT
REPUBLIC OF
TRINIDAD AND TOBAGO

BILL

AN ACT to amend the Bills of Exchange
Act, Chap. 82:31

Received and read the

First time

Second time

Third time