



ANALYSIS

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1979, No. 3

An Act to amend the Bills of Exchange Act 1908

[6 August 1979]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Bills of Exchange Amendment Act 1979, and shall be read together with and deemed part of the Bills of Exchange Act 1908 (hereinafter referred to as the principal Act).

(2) This Act shall come into force on the 1st day of January 1980.

2. Interpretation—Section 2 of the principal Act is hereby amended by inserting, in their appropriate alphabetical order, the following definitions:

“ ‘Business day’ means any day that is not a non-business day:

“ ‘Non-business day’ means any Saturday or Sunday or any bank holiday (not being a part holiday) within the meaning of the Banking Act 1908; and includes, in respect of any bank premises, every day on which those premises are not open for business:”.

3. Computation of time of payment—(1) Section 14 of the principal Act is hereby amended by repealing paragraph (a) (as amended by section 13 of the Statutes Amendment Act 1946), and substituting the following paragraph:

“(a) The bill is due and payable in all cases on the last day of the time of payment as fixed by the bill or, if that day is a non-business day, on the next following business day:”.

(2) Section 13 of the Statutes Amendment Act 1946 is hereby consequentially repealed.

(3) In respect of bills drawn and notes made before the 1st day of January 1980, the principal Act shall have effect as if this section had not been enacted.

4. Liability continues except to extent that a party has been prejudiced by an omission—(1) Section 40 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsection:

“(2) If he does not do so, the drawer and all indorsers prior to that holder are discharged to the extent that they are prejudiced by the omission.”

(2) Section 42 of the principal Act is hereby amended by adding, after the words “drawer and indorsers”, the words “to the extent that they are prejudiced by the omission”.

(3) Section 45 (1) of the principal Act is hereby amended by adding, after the words “shall be discharged”, the words “to the extent that they are prejudiced by the omission”.

(4) Section 48 of the principal Act is hereby amended by inserting, after the words “is discharged”, the words “to the extent that he is prejudiced by the omission”.

(5) Section 51 (2) of the principal Act is hereby amended by adding the words “to the extent that they are prejudiced by the omission”.

5. Rules as to presentment for acceptance, and excuses for non-presentment—(1) Section 41 (1) of the principal Act is hereby amended by inserting, after paragraph (d), the following paragraph:

“(da) Where the drawee is a body corporate that is being wound up, presentment may be made to the body corporate itself or to the liquidator:”.

(2) Section 41 (2) of the principal Act is hereby amended by inserting, after paragraph (f), the following paragraph:

“(fa) Where the drawee is a body corporate that is being wound up:”.

6. Rules as to presentment for payment—Section 45 (2) of the principal Act is hereby amended by inserting, after paragraph (g), the following paragraphs:

“(ga) Where the drawee or acceptor of the bill is bankrupt, presentment may be made to the bankrupt himself or to his assignee.

“(gb) Where the drawee or acceptor of the bill is a body corporate that is being wound up, presentment may be made to the body corporate itself or to the liquidator.”

7. Excuses for delay or non-presentment for payment—Section 46 (2) of the principal Act is hereby amended by repealing paragraphs (c) and (d), and substituting the following paragraphs:

“(ba) Where the drawee or acceptor is bankrupt:

“(bb) Where the drawee or acceptor is a body corporate that is being wound up:

“(c) As regards the drawer,—

“(i) Where the drawee or acceptor is not bound, as between himself and the drawer, to accept or pay the bill, and the drawer has no reason to believe that the bill would be paid if presented; or

“(ii) Where the drawer is bankrupt; or

“(iii) Where the drawer is a body corporate that is being wound up:

“(d) As regards an indorser,—

“(i) Where the bill was accepted or made for the accommodation of that indorser, and he has no reason to believe that the bill would be paid if presented; or

“(ii) Where that indorser is bankrupt; or

“(iii) Where that indorser is a body corporate that is being wound up:”.

8. Rules as to notice of dishonour—Section 49 of the principal Act is hereby amended by inserting, after paragraph (k), the following paragraph:

“(ka) Where the drawer or indorser is a body corporate that is being wound up, notice may be given either to the body corporate itself or to the liquidator:”.

9. Repeal and saving—(1) Section 12 of the Statutes Amendment Act 1946 is hereby repealed.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, it is hereby declared that the repeal effected by subsection (1) of this section shall not affect the amendments made by subsection (2) of section 12 of the Statutes Amendment Act 1946 to section 93 of the principal Act.

This Act is administered in the Department of Justice.
