

EXPOSURE DRAFT



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Cheques Regulations 2017

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 2017

Peter Cosgrove
Governor-General

By His Excellency's Command

Scott Morrison [**DRAFT ONLY—NOT FOR SIGNATURE**]
Treasurer

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Part 1—Preliminary

1 Name

This instrument is the *Cheques Regulations 2017*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Cheques Act 1986*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) cheque (see section 10 of the Act);
- (b) dishonour (see section 69 of the Act);
- (c) financial institution.

In this instrument:

Act means the *Cheques Act 1986*.

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Part 2 Provisions for the purposes of cheques

Section 6

Part 2—Provisions for the purposes of cheques

6 FCA institutions

For the purposes of paragraph (b) of the definition of *FCA institution* in subsection 3(1) of the Act, the following bodies are prescribed:

- (a) Primac Elders Limited;
- (b) Wesfarmers Dalgety Limited;
- (c) Wesfarmers Limited.

7 Designated place—prescribed form of notice by a financial institution

For the purposes of subsection 65(1) of the Act, the form set out in Schedule 1 is prescribed as the form for a notice by a financial institution to specify a place as a designated place in relation to cheques.

8 Register of notices

- (1) For the purposes of subsection 65A(5) of the Act, the eligible authority must keep a register of the following notices:
 - (a) notices given to the authority by financial institutions under subsection 65A(2) of the Act;
 - (b) notices varying or revoking notices of the kind referred to in paragraph (a).

Note: A notice referred to in paragraph (1)(a) is a notice given to the eligible authority by a financial institution under subsection 65A(2) of the Act specifying a place as a notified place in relation to cheques for the Act.

- (2) The register is to be kept in such form and manner as the eligible authority directs.

9 Inspection of the register

For the purposes of paragraph 65A(5)(b) of the Act, the following persons may inspect the register of notices:

- (a) an employee of the eligible authority;
- (b) an employee of a financial institution, if the employee:
 - (i) is required by the financial institution to inspect the register; and
 - (ii) applies to the eligible authority to inspect the register; and
 - (iii) shows to the eligible authority a written statement by an officer of the financial institution to the effect that the person is required by the financial institution to inspect the register.

Note: No fee is payable to inspect the register.

10 Obtaining information contained in the register

- (1) For the purposes of paragraphs 65A(5)(c) and (d) of the Act, if a person:

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- (a) asks the eligible authority to provide information contained in the register;
and
 - (b) pays the fee determined under subsection (2) or (3);
- the authority must, as soon as practicable, provide the information.
- (2) The fee for providing information that must be obtained from one notice in the register is \$20.
 - (3) The fee for providing information that must be obtained from more than one notice in the register is worked out using the formula:

$$\$20 + \$ \left(\begin{array}{c} \text{Number of notices} \\ \text{from which the information is obtained} - 1 \end{array} \right)$$

11 Damages on dishonour—rate of interest

- (1) For the purposes of subparagraphs 76(1)(a)(ii) and (b)(ii) of the Act, this section sets out how to work out the amount of interest that is payable, in relation to a dishonoured cheque, in accordance with this instrument.
- (2) Interest is payable for the period:
 - (a) beginning on the day the cheque is dishonoured; and
 - (b) ending on the day the sum or amount referred to in subparagraph 76(1)(a)(i) or (b)(i) of the Act is paid in full.
- (3) However, interest is not payable, in respect of a part payment of the sum or amount referred to in subparagraph 76(1)(a)(i) or (b)(i) of the Act, from the day on which that part payment is made.
- (4) The amount of interest that is payable is worked out using a rate equal to the monthly average yield of 90-day Bank Accepted Bills that was published most recently by the Reserve Bank of Australia before the day the cheque was dishonoured.

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Part 3 Application and transitional provisions

Division 1 Provisions relating to the commencement of this instrument

Section 12

Part 3—Application and transitional provisions

Division 1—Provisions relating to the commencement of this instrument

12 Definitions

In this Division:

commencement day means the day this instrument commences.

old law means the *Cheques Regulations 1987*, as in force immediately before the commencement day.

13 Application—damages on dishonour

Section 11 of this instrument applies in relation to an amount of interest that is payable under subparagraph 76(1)(a)(ii) or (b)(ii) of the Act on or after the commencement day (whether the period in relation to which interest is payable begins before, on or after the commencement day).

14 Transitional—register of notices

A register kept under regulation 6 of the old law immediately before the commencement day is taken on and after that day to be kept under section 8 of this instrument.

15 Transitional—things done under the old law

- (1) For the purposes of this instrument, subject to sections 13 and 14, if:
 - (a) a thing was done for a particular purpose under the old law; and
 - (b) the thing could be done for that purpose under this instrument;the thing has effect as if it had been done under this instrument for that purpose.
- (2) Without limiting subsection (1), a reference in that subsection to a thing being done includes a reference to a notice, application or other instrument being given or made.

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Form of notice by a financial institution specifying a place as a designated place **Schedule 1**
Application and transitional provisions **Part 3**

Schedule 1—Form of notice by a financial institution specifying a place as a designated place

Note: See section 7.

(Prepare a separate notice for each designated place)

(insert full name of financial institution giving the notice) specifies:

- (a) *(insert address of the place to be designated, not being the address of a post office box or bag)* as a designated place for the purposes of *(insert any one or more of ‘subsection 62(1)’ or ‘subsection 62(9)’ as the case requires)* of the *Cheques Act 1986* in relation to the following classes of cheques:
(identify each of those classes with reasonable certainty);
- (b) *(identify the days and the hours of each of those days)* as the times when the financial institution will be open for business at that designated place;
and
- (c) *(identify the means)* as the means by which communications may be made to the financial institution at that designated place.

THIS NOTICE has effect on and from *(insert ‘the day on which it is published in the Gazette’ or, if this notice is to have effect on a later date, insert that date)*.

Publication of this notice was authorised by *(insert full name and designation of an officer of the financial institution giving the notice who is authorised by the financial institution to authorise publication of this notice—the officer’s signature is not required)* on (date).

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Schedule 2 Repeals

Schedule 2—Repeals

Cheques Regulations 1987

1 The whole of the instrument

Repeal the instrument.