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Subject to subsection (2), where a bill or an acceptance is materially altered without the assent of all parties bound on the bill, the bill is voided, except as against a party who has himself altered or assented to the alteration and subsequent endorsers. Marginal note: Right of holder in due course (2) Where a bill has been materially altered, but the alteration is not apparent, and the bill is in the hands of a holder in due course, the holder may avail himself of the bill as if it had not been altered and may enforce payment of it according to its original tenor. Marginal note: Material alteration (1) In particular, any alteration (a) of the date, (b) of the sum payable, (c) of the time of payment, (d) of the place of payment, or (e) by the addition of a place of payment without the acceptor's assent where a bill has been accepted generally, is a material alteration. Marginal note: Acceptance for honour under protest (1) 46 Where a bill of exchange has been protested for dishonour by non-acceptance, or protested for better security, and is not overdue, any person, not being a party already liable thereon, may, with the consent of the holder, intervene and accept the bill under protest for the honour of any party liable thereon or for the honour of the person for whose account the bill is drawn. Marginal note: In part (1) 47 A bill may be accepted for honour for part only of the sum for which it is drawn. Marginal note: Deemed to be for honour of drawer (1) 48 Where an acceptance for honour does not expressly state for whose honour it is made, it is deemed to be an acceptance for the honour of the drawer. Marginal note: Maturity of after-sight bill (1) 49 Where a bill payable after sight is accepted for honour, its maturity is calculated from the date of protesting for non-acceptance and not from the date of the acceptance for honour. Marginal note: Requirements (1) 50 An acceptance for honour under protest, in order to be valid, must be (a) written on the bill, and indicate that it is an acceptance for honour; and (b) signed by the acceptor for honour. Marginal note: Liability of acceptor for honour (1) 51 (1) The acceptor for honour of a bill by accepting it engages that he will, on due presentment, pay the bill according to the tenor of his acceptance, if it is not paid by the drawee, if it has been duly presented for payment and protested for non-payment and if he receives notice of those facts. Marginal note: Liability to holder and others (2) The acceptor for honour is liable to the holder and to all parties to the bill subsequent to the party for whose honour he has accepted. Marginal note: Payment for honour under protest (1) 52 (1) Where a bill has been protested for non-payment, any person may intervene and pay it under protest for the honour of any party liable thereon or for the honour of the person for whose account the bill is drawn. Marginal note: If more than one offer (2) Where two or more persons offer to pay a bill for the honour of different parties, the person whose payment will discharge most parties to the bill has the preference. Marginal note: Refusal to receive payment (3) Where the holder of a bill refuses to receive payment under protest, he loses his right of recourse against any party who would have been discharged by that payment. Marginal note: Entitled to bill (4) The payer for honour, on paying to the holder the amount of the bill and the notarial expenses incidental to its dishonour, is entitled to receive both the bill itself and the protest. Marginal note: Liability for refusing (5) Where the holder does not on demand in a case described in subsection (4) deliver up the bill and protest, he is liable to the payer for honour in damages. Marginal note: Attestation of payment for honour (1) 53 (1) Payment for honour under protest, in order to operate as such and not as a mere voluntary payment, must be attested by a notarial act of honour, which may be appended to the protest or form an extension of it. Marginal note: Declaration (2) The notarial act of honour must be founded on a declaration made by the payer for honour, or his agent in that behalf, declaring his intention to pay the bill for honour, and for whose honour he pays. Marginal note: Discharge and subrogation (1) 54 Where a bill has been paid for honour, all parties subsequent to the party for whose honour it is paid are discharged, but the payer for honour is subrogated for and succeeds to both the rights and duties of the holder with respect to the party for whose honour he pays, and all parties liable to that party. Marginal note: Holder to be duplicate of lost bill (1) 55 (1) Where a bill has been lost before it is overdue, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever, in case the bill alleged to have been lost is found again. Marginal note: Refusal (2) Where the drawer, on request, refuses to give a duplicate bill, he may be compelled to do so. Marginal note: Action on lost bill (1) 56 In any action or proceeding on a bill, the court or a judge may order that the loss of the instrument shall not be set up, if an indemnity is given to the satisfaction of the court or judge against the claims of any other person on the instrument in question. Marginal note: Bills in set (1) 57 (1) Where a bill is drawn in a set, each part of the set being numbered, and containing a reference to the other parts, the whole of the parts constitute one bill. Marginal note: Acceptance (2) The acceptance may be written on any part, but it must be written on one part only. Marginal note: Endorsing more than one part (1) 58 (1) Where the holder of a set endorses two or more parts to different persons, he is liable on every such part, and every endorser subsequent to him is liable on the part he has himself endorsed as if the parts were separate bills. Marginal note: Negotiation to different holders (2) Where two or more parts of a set are negotiated to different holders in due course, the holder whose title first accrues is, as between such holders, deemed the true owner of the bill, but nothing in this subsection affects the rights of a person who in due course accepts or pays the part first presented to him. Marginal note: Accepting more than one part (3) Where the drawee accepts more than one part and such accepted parts get into the hands of different holders in due course, he is liable on every such part as if it were a separate bill. Marginal note: Payments without delivery (4) When the acceptor of a bill drawn in a set pays it without requiring the part bearing his acceptance to be delivered up to him, and that part at maturity is outstanding in the hands of a holder in due course, he is liable to the holder thereof. Marginal note: Discharge (5) Subject to this section, where any one part of a bill drawn in a set is discharged by payment or otherwise, the whole bill is discharged. Marginal note: Requisites of form (1) 59 (1) Subject to subsections (2) and (3), where a bill drawn in one country is negotiated, accepted or payable in another, the validity of the bill with respect to requisites in form is determined by the law of the place of issue, and the validity with respect to requisites in form of the supervening contracts, such as endorsement, acceptance or acceptance under protest, is determined by the law of the place where the contract was made. Marginal note: Unstamped bills (2) Where a bill is issued outside Canada, it is not invalid by reason only that it is not stamped in accordance with the law of the place of issue. Marginal note: Conforming to the law of Canada (3) Where a bill, issued outside Canada, conforms, with respect to requisites in form, to the law of Canada, it may, for the purpose of enforcing payment thereof, be treated as valid as between all persons who negotiate, hold or become parties to it in Canada. Marginal note: Law applicable (1) 60 Subject to this Act, the interpretation of the drawing, endorsement, acceptance or acceptance under protest of a bill, drawn in one country and negotiated, accepted or payable in another, is determined by the law of the place where the contract is made, but where an inland bill is endorsed in a foreign country, the endorsement shall, with respect to the payer, be interpreted according to the law of Canada. Marginal note: Law as to duties of holder (1) 61 The duties of the holder with respect to presentment of a bill for acceptance or payment and the necessity for or sufficiency of a protest or notice of dishonour are determined by the law of the place where the act is done or the bill is dishonoured. Marginal note: Currency (1) 62 Where a bill is drawn out of but payable in Canada and the sum payable is not expressed in the currency of Canada, the amount shall, in the absence of an express stipulation, be calculated according to the rate of exchange for sight drafts at the place of payment on the day the bill is payable. Marginal note: Due date (1) 63 Where a bill is drawn in one country and is payable in another country, the due date thereof is determined according to the law of the place where it is payable. Marginal note: Definitions (1) 63.1 The following definitions apply in this section and sections 163.2 to 163.6. bankbank has the same meaning as in section 164. (banque) eligible bill eligible bill means a bill that is of a class specified by a by-law, a rule or a standard made under the Canadian Payments Act. (lettre admissible) official imageofficial image, in respect of an eligible bill, means an image of that eligible bill created by or on behalf of a bank in accordance with by-laws, rules or standards made under the Canadian Payments Act, together with any data in relation to the eligible bill prepared in accordance with those by-laws, rules and standards, and includes a display, a printout, a copy or any other output of that image and that data created by or on behalf of a bank in accordance with those by-laws, rules and standards. (image officielle) Marginal note: Status of official image (1) 63.2 An official image of an eligible bill may be dealt with and used for all purposes as though it were the eligible bill. Marginal note: Warrant (1) 63.3 (1) Despite anything in this Act, a bank may present for payment an official image of an eligible bill electronically in accordance with by-laws, rules or standards made under the Canadian Payments Act and, if it does so, the requirements of this Act respecting the presentment for payment of the eligible bill are deemed to have been complied with. Marginal note: Discharge by payment (2) The eligible bill and its official image are discharged if payment in due course is made by or on behalf of the drawee after the electronic presentment for payment of the official image of the eligible bill. Marginal note: Presumption (1) 63.4 (1) In the absence of evidence to the contrary, a document purporting to be an official image of an eligible bill is presumed to be an official image of the eligible bill. Marginal note: Admissibility (2) An official image of an eligible bill is admissible in evidence for all purposes for which the official bill would be admitted as evidence without proof that the official image was created by or on behalf of a bank in accordance with the by-laws, rules or standards made under the Canadian Payments Act. Marginal note: True copy of contents (3) In the absence of evidence to the contrary, an official image of an eligible bill is presumed to be a true and exact copy of the contents of the eligible bill. Marginal note: Effect of destruction (1) 63.5 If an eligible bill is destroyed in accordance with by-laws, rules or standards made under the Canadian Payments Act and there is an official image of the bill, (a) a person's rights and powers in relation to the eligible bill are not affected by reason only that the person does not possess it; (b) the destruction does not affect any person's rights, powers, duties and liabilities in relation to the eligible bill; and (c) the eligible bill is not considered to be lost or to have been materially altered or intentionally cancelled. Marginal note: Warranty (1) 63.6 (1) A bank that creates or purports to create an official image of an eligible bill, or on whose behalf an official image of an eligible bill is created or purported to be created, warrants (a) that the official image or the purported official image, as the case may be, was created in accordance with by-laws, rules or standards made under the Canadian Payments Act and that it accurately represents the eligible bill; Marginal note: Damages (2) Any person who has suffered damages as a result of a breach of the warranty has a cause of action for damages against the bank. PART III Cheques on a Bank Marginal note: Definition of "bank" (1) 64 In this Part, bank includes every member of the Canadian Payments Association established under the Canadian Payments Act and every local cooperative credit society, as defined in that Act, that is a member of a central, as defined in that Act, that is a member of the Canadian Payments Association. R.S., 1985, c. B-4, s. 164 2001, c. 9, s. 586 Marginal note: Cheque (1) 65 (1) A cheque is a bill drawn on a bank, payable on demand. Marginal note: Provisions as to bills apply (2) Except as otherwise provided in this Part, the provisions of this Act applicable to a bill payable on demand apply to a cheque. Marginal note: Cheque for deposit to account (3) Where a cheque is delivered to a bank for deposit to the credit of a person and the bank credits him with the amount of the cheque, the bank acquires all the rights and powers of a holder in due course of the cheque. Marginal note: Presentment for payment (1) 66 (1) Subject to this Act, (a) where a cheque is not presented for payment within a reasonable time of its issue and the drawer or the person on whose account it is drawn had the right at the time of presentment, as between him and the bank, to have the cheque paid, and suffers actual damage through the delay, he is discharged to the extent of the damage, that is to say, to the extent to which the drawer or person is a creditor of the bank to a larger amount than he would have been had the cheque been paid; and (b) the holder of the cheque, with respect to which the drawer or person is discharged, shall be a creditor, in lieu of the drawer or person, of the bank to the extent of the discharge, and entitled to recover the amount from it. Marginal note: Reasonable time (2) In determining what is a reasonable time, within this section, regard shall be had to the nature of the instrument, the usage of trade and of banks and the facts of the particular case. Marginal note: Authority to pay (1) 67 The duty and authority of a bank to pay a cheque drawn on it by its customer are determined by (a) the demand of payment; or (b) notice of the customer's death. Marginal note: Crossing generally (1) 68 (1) Where a cheque bears across its face an addition of (a) the word "bank" between two parallel transverse lines, either with or without the words "not negotiable", or (b) two parallel transverse lines, simply, either with or without the words "not negotiable", that addition constitutes a crossing, and the cheque is crossed specially and to that bank. Marginal note: By drawer (1) 69 (1) A cheque may be crossed generally or specially by the drawer. Marginal note: By holder (2) Where a cheque is uncrossed, the holder may cross it generally or specially. Marginal note: Varying (3) Where a cheque is crossed generally, the holder may cross it specially. Marginal note: Words may be added (4) Where a cheque is crossed generally or specially, the holder may add the words "not negotiable". Marginal note: By bank for collection (5) Where a cheque is crossed specially, the bank to which it is crossed may again cross it specially to another bank for collection. Marginal note: Changing crossing (6) Where an uncrossed cheque, or a cheque crossed generally, is sent to a bank for collection, it may cross it specially to itself. Marginal note: Uncrossing (7) A crossed cheque may be reopened or uncrossed by the drawer writing between the transverse lines the words "pay cash", and initialling the same. Marginal note: Material part (1) 70 (1) A crossing authorized by this Act is a material part of the cheque. Marginal note: Altering crossing (2) It is not lawful for any person to obliterate or, except as authorized by this Act, to add to or alter the crossing. Marginal note: Crossed to more than one bank (1) 71 Where a cheque is crossed specially to more than one bank, except when crossed to another bank as agent for collection, the bank on which it is drawn shall refuse payment thereof. Marginal note: Liability for improper payment (1) 72 (1) Subject to subsection (2), where the bank on which a cheque crossed as described in section 171 is drawn nevertheless pays the cheque, or pays a cheque crossed generally otherwise than to a bank, or, if crossed specially, otherwise than to the bank to which it is crossed or to the bank acting as its agent for collection, it is liable to the true owner of the cheque for any loss he sustains owing to the cheque having been so paid. Marginal note: Payment in good faith and without negligence (2) Where a cheque is presented for payment that does not at the time of presentment appear to be crossed, or to have had a crossing that has been obliterated, or to have been added to or altered otherwise than as authorized by this Act, the bank paying the cheque in good faith and without negligence shall not be responsible or incur any liability, nor shall the payment be questioned by reason of the cheque having been crossed, or of the crossing having been obliterated or having been added to or altered otherwise than as authorized by this Act, and of payment having been made otherwise than to a bank or to the bank to which the cheque is or was crossed, or to the bank acting as its agent for collection, as the case may be. Marginal note: Protection in such case (1) 73 Where the bank on which a crossed cheque is drawn in good faith and without negligence pays it, if crossed generally, to a bank, or, if crossed specially, to the bank to which it is crossed or to a bank acting as its agent for collection, the bank paying the cheque and, if the cheque has come into the hands of the payee, the drawer shall respectively be entitled to the same rights and be placed in the same position as if payment of the cheque had been made to the true owner thereof. Marginal note: "Not negotiable" cross (1) 74 Where a person takes a crossed cheque that bears on it the words "not negotiable", he does not have and is not capable of giving a better title to the cheque than the person from whom he took it had. Marginal note: Customer without title (1) 75 Where a bank, in good faith and without negligence, receives for a customer payment of a cheque crossed generally or specially to itself and the customer has no title or a defective title thereto, the bank does not incur any liability to the true owner of the cheque by reason only of having received that payment. PART IV Promissory Notes Marginal note: Definition (1) 76 (1) A promissory note is an unconditional promise in writing made by one person to another person, signed by the maker, engaging to pay, on demand or at a fixed or determinable future time, a sum certain in money, to, or to the order of, a specified person or to bearer. Marginal note: Endorsed by maker (2) An instrument in the form of a note payable to the maker's order is not a note within the meaning of this section, unless it is endorsed by the maker. Marginal note: Pledge of collateral security (3) A note is not invalid by reason only that it contains also a pledge of collateral security with authority to sell or dispose thereof. Marginal note: Note (1) 77 (1) A note that is, or on the face of it purports to be, both made and payable within Canada is an inland note. Marginal note: Foreign note (2) Any other note is a foreign note. Marginal note: Delivery (1) 78 A note is inchoate and incomplete until delivery thereof to the payee or bearer. Marginal note: Joint and several liability (1) 79 (1) A note may be made by two or more makers, and they may be liable thereon jointly, or jointly and severally, according to its tenor. Marginal note: Individual promise (2) Where a note bears the words "I promise to pay" and is signed by two or more persons, it is deemed to be their joint and several note. Marginal note: Demand note presentment (1) 80 (1) Where a note payable on demand has been endorsed, it must be presented for payment within a reasonable time of the endorsement. Marginal note: Reasonable time (2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade and the facts of the particular case. Marginal note: Endorser discharged (1) 81 Where a note payable on demand that has been endorsed is not presented for payment within a reasonable time, the endorser is discharged but, if it has, with the assent of the endorser, been delivered as a collateral or continuing security, it need not be presented for payment so long as it is held as such security. Marginal note: Note not deemed overdue (1) 82 Where a note payable on demand is negotiated, it is not deemed to be overdue, for the purpose of affecting the holder with defects of title of which he had no notice, by reason that it appears that a reasonable time for presenting it for payment has elapsed since its issue. Marginal note: Presentment at particular place (1) 83 (1) Where a note is, in the body of it, made payable at a particular place, it must be presented for payment at that place. Marginal note: Liability of maker (2) In the case described in subsection (1), the maker is not discharged by the omission to present the note for payment on the day that it matures, but if any suit or action is instituted thereon against him before presentation, the costs of such action for damages against the bank. 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Marginal note: Altering crossing (2) It is not lawful for any person to obliterate or, except as authorized by this Act, to add to or alter the crossing. Marginal note: Crossed to more than one bank (1) 71 Where a cheque is crossed specially to more than one bank, except when crossed to another bank as agent for collection, the bank on which it is drawn shall refuse payment thereof. Marginal note: Liability for improper payment (1) 72 (1) Subject to subsection (2), where the bank on which a cheque crossed as described in section 171 is drawn nevertheless pays the cheque, or pays a cheque crossed generally otherwise than to a bank, or, if crossed specially, otherwise than to the bank to which it is crossed or to the bank acting as its agent for collection, it is liable to the true owner of the cheque for any loss he sustains owing to the cheque having been so paid. 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Marginal note: Protection in such case (1) 73 Where the bank on which a crossed cheque is drawn in good faith and without negligence pays it, if crossed generally, to a bank, or, if crossed specially, to the bank to which it is crossed or to a bank acting as its agent for collection, the bank paying the cheque and, if the cheque has come into the hands of the payee, the drawer shall respectively be entitled to the same rights and be placed in the same position as if payment of the cheque had been made to the true owner thereof. Marginal note: "Not negotiable" cross (1) 74 Where a person takes a crossed cheque that bears on it the words "not negotiable", he does not have and is not capable of giving a better title to the cheque than the person from whom he took it had. Marginal note: Customer without title (1) 75 Where a bank, in good faith and without negligence, receives for a customer payment of a cheque crossed generally or specially to itself and the customer has no title or a defective title thereto, the bank does not incur any liability to the true owner of the cheque by reason only of having received that payment. PART IV Promissory Notes Marginal note: Definition (1) 76 (1) A promissory note is an unconditional promise in writing made by one person to another person, signed by the maker, engaging to pay, on demand or at a fixed or determinable future time, a sum certain in money, to, or to the order of, a specified person or to bearer. Marginal note: Endorsed by maker (2) An instrument in the form of a note payable to the maker's order is not a note within the meaning of this section, unless it is endorsed by the maker. 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