

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

DEBITS TAX (AMENDMENT) BILL 1998

EXPLANATORY MEMORANDUM

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Summary

This is an amending Bill. It amends the *Debits Tax Act 1997* referred to in the amending Bill as the Principal Act.

The amendments introduced by this Bill are intended to

- ensure that the provision of cheque accounts in the ACT by building societies, credit unions, and their Special Service Providers are subject to the *Debits Tax Act 1997* in the same way as bank cheque accounts are
- replace references to the 'Commonwealth Employment Service' in the Debits Tax Act 1997, with 'Centrelink'

Under the *Debits Tax Act 1997*, (the Act) the ACT Government collects debits tax on withdrawals from all accounts of defined financial institutions which have the provision for cheque drawing facilities.

Existing Commonwealth legislation (the *Cheques and Payment Orders Act 1986*) does not allow building societies and credit unions to issue cheques in their own name. In order to provide their members with cheque drawing facilities, building societies and credit unions have arrangements with defined financial institutions under which a cheque account can be maintained. It is on the cheque account maintained by a defined financial institution that debits tax is currently paid, and then passed on to the building society or credit union concerned, by way of a fee. In most cases this fee is on-charged to building society or credit union members.

The Federal Government passed legislation to amend the *Cheques and Payment Orders Act 1986* to allow building societies, credit unions and their Special Services Providers (SSPs) to issue cheques in their own name. The *Cheques and Payment Orders (Amendment) Act 1998* was proclaimed on 22 July 1998 to commence on 1 December 1998. From 1 December 1998, the *Cheques and Payment Orders Act 1986* will be renamed the *Cheques Act 1986*.

Finance/Cost Implications

This measure is revenue positive.

Details of the Bill are attached.

Details of the Debits Tax (Amendment) Bill 1998

Formal Clauses

Clauses 1, 2 and 3 are formal requirements. They refer to the short title of the Bill, commencement of the amendments introduced by the Bill, and definition of the Principal Act.

Whilst clauses 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*, the remaining provisions commence on the same day on which the *Cheques and Payment Orders Amendment Act 1998* of the Commonwealth commences.

Interpretation

Clause 4 amends section 3 of the Principal Act by removing all reference to 'bank', 'non-bank' and 'payment order' from the definitions of "account", "account transaction", "cheques" and "financial institution".

As a consequence of the amendments to the *Cheques and Payment Orders Amendment Act 1998* (Cwth) the distinction between bank and non-bank financial institutions is to be replaced by a new definition of financial institution. Also removed is the reference to the little used instrument of a payment order which is to be replaced by a cheque. These changes by the Commonwealth amending Act are now reflected in the *Debits Tax (Amendment) Bill 1998*.

The new definition of 'financial institution' includes those 'bank' and 'non-bank' financial institutions as defined under the Principal Act, and are financial institutions for the purpose of the *Cheques Act 1986* (Cwth).

A new definition of 'banking business' is included to apply to a financial institution under the Act, which keeps accounts for its customers.

Excluded debits

Clause 5 amends section 6 of the Principal Act by omitting references to 'payment order'. Payment orders will no longer operate under the *Cheques Act 1986* (Cwth).

Imposition of tax

Clause 6 amends section 10 of the Principal Act by removing references to a 'non-bank account'. For the purposes of this Amending Bill, the distinction between a 'bank' and 'non-bank' account is removed. These accounts are now referred to as a 'customer's account'.

Rebates

Clause 7 amends section 16 of the Principal Act by replacing the reference to 'Commonwealth Employment Service' with 'Centrelink'. This is to reflect the change in the responsibility for the registration of unemployed persons. Persons registered as unemployed with Centrelink, are eligible for a rebate of debts tax on their account with a cheque drawing facility.

Representative Officers

Clause 8 amends Section 16 of the Principal Act by omitting references to 'non-bank', and 'bank' in relation to representative officers of financial institutions. This is in keeping with the new definition of 'financial institution' provided under Clause 4.

Additionally the definition of 'carrying on business' under Section 16 of the Principal Act is replaced by the new definition of 'banking business' provided under Clause 4.

Repeal

Clause 9 repeals section 23 of the Principal Act. This section was only operative for a period of one month preceding and one month following the commencement of the Principal Act.