



03 March 2021

Data Economy Unit
Market Conduct Division
Treasury
mbcomms@treasury.gov.au

Dear Sir or Madam

Modernising Business Communications

The Australian Banking Association (**ABA**) welcomes the opportunity to make a submission to the Treasury consultation on modernising business communications. The ABA advocates for a strong, competitive, and innovative banking industry that delivers excellent and equitable outcomes for customers. The ABA promotes and encourages policies that improve banking services for all Australians, through advocacy, research, policy expertise and thought leadership.

The ABA welcomes the Government's establishment of the Deregulation Taskforce (**Taskforce**). The proposed reforms to modernise business communications have the potential to reduce business costs and reflect the way Australian consumers and businesses prefer to manage their financial affairs today. The ABA particularly welcomes the Taskforce's whole-of-economy approach by working to improve technology neutrality across Commonwealth laws, and importantly - partnering with states and territories to explore opportunities to achieve national consistency.

During 2020, COVID-19 emergency e-transaction reforms undertaken by all levels of government ensured essential business transactions could occur during the pandemic and avoided interruptions for both consumers and businesses. The success of these reforms in supporting economic activity in a safe and modern way means these initiatives should now be made permanent nationally.

The ABA strongly supports the need for nationally consistent technology neutrality reforms. Without consistency and continued co-operation across all levels of governments material impediments to the full adoption of electronic execution in economically significant areas such as mortgages and the execution of deeds will remain.

The ABA have provided feedback on the following issues raised in the Treasury consultation paper:

- Written Communications with stakeholders.
- Communicating with regulators.
- Written signature requirements.
- Payment methods

Each of these are considered below.

Written Communications with Stakeholders

The ABA supports Treasury's proposed principal to adopt technology neutral laws to remove regulatory barriers to electronic communications, such as removing exemptions to the *Electronic Transactions Regulations 2020* in respect of business communications. This will allow for entities to choose a default means of providing 'in writing' communications that is appropriate to their circumstances and will still allow recipients to receive information in other formats (such as paper) where digital formats are not practical.



The ABA agrees with Treasury that the current laws impose limitations on the way Australian businesses can communicate with their stakeholders by requiring hard copy communications as a default option. Australia is a nation of 'early adopters' of new technologies, Treasury's proposal will allow businesses to better meet customers' expectations for easily accessible and timely information.

Communicating with regulators

The ABA supports Treasury's proposals to improve the technology neutrality for the provision of information to regulators. We encourage Treasury go further in its proposed principles and introduce a process by which Treasury portfolio agencies share a consistent and co-ordinated approach to data collection.

Banks provide significant volumes of data to Treasury as well as its portfolio agencies: the Australian Bureau of Statistics (**ABS**), Australian Prudential Regulation Authority (**APRA**), Australian Competition and Consumer Commission (**ACCC**), Australian Securities and Investments Commission (**ASIC**) and the Australian Transaction Reports and Analysis Centre (**AUSTRAC**). While these agencies should have the ability to specify what information they require, greater efficiencies could be gained from having a central point of data collection or quality control in a manner similar to which APRA coordinate Economic and Financial Statistics (**EFS**) shared on behalf of the RBA and the ABS.

Any data provision by banks requires significant investment of time and resources in their own reporting systems. When Treasury agencies unilaterally develop their own data collections, it can lead to a multitude of data definitions that require banks to create manual overrides of their systems to extract the data. Often these requests are developed by government specialists with legal and/or policy backgrounds without experience in data.

A centralised point through which all government data requests must flow will allow for oversight of data collections by appropriately qualified data specialists. They can ensure that the request is not a duplicate of a pre-existing request and provide advice as to developing the collection itself. A coordinated approach will reduce regulatory costs and duplication across the finance industry.

Written signature requirements

The ABA strongly supports the Treasury proposal to explicitly enable the use of electronic signatures as governments build on the successful reforms put in place in response to COVID-19. The ABA agrees that electronic signature technology can replace the need for 'wet ink' signature and witnessing requirements. Technology can provide an equivalent and often a reliable indication of the signatory's identity and intention – and importantly, these reforms do not displace consumer protections such as the Banking Code requirements for guarantees and joint loans.

The ABA supports the current reforms by both State and Federal Government to facilitate the continuation of e-transactions post COVID-19 (see list of reforms in Attachment B & C) and the ABA is actively providing feedback on the behalf of industry. However, to achieve the maximum economic fully benefit reforms need to be implemented consistently across both Federal and State Governments. Given this, the ABA appreciates the Government's leadership to ensure a coordinated implementation of reforms for the benefit of all Australians.

The ABA supported the Government's prompt action during the COVID-19 pandemic granting temporary relief (until 31 March 2021) for the signing and sending of electronic documents. We welcome the Government's intention to now make these technology-neutral reforms permanent, via the proposed *Treasury Laws Amendment (2021 Measures No 1) Bill 2021*. This bill is currently referred to the Senate Economics Legislation Committee and not due to be reported on until 30 June 2021. Without an extension of the existing temporary relief, Australian businesses will face unnecessary cost in reverting to the old paper-based processes temporarily. The ABA would welcome an extension of the temporary relief until a time after the Senate Economics Legislation Committee reports.



Payments

The ABA supports a technology neutral approach to payments. The ABA welcomes the Treasury's proposal to increase payment neutrality within its own legislative portfolio. The ABA would also support a program of payment-technology neutrality reforms to help smooth the transition to electronic transactions, which will benefit the economy.

AusPayNet have identified a 25 pieces of legislation regulations (Commonwealth, State, and Territory Acts) requiring changes to make them payment-type neutral (Attachment C). The ABA considers that a program of payment neutrality reforms encompassing the identified pieces of legislation should be prioritised by Treasury. These reforms align with the Government's ambition to be a leading digital economy by 2030 as new and secure payment methods reduce costs for small business and reflect consumers clear preference for alternative, more secure and faster payment methods.

Legacy payments infrastructure

The RBA 2019 Consumer Payments Survey¹ provides evidence that Australian consumers increasingly use electronic payment methods. The survey showed that Australians are continuing to switch to electronic payment methods in preference to cash and confirmed that personal cheques are very rarely used for consumer payments.

These trends are seen across all age groups, cementing Australia as a nation of 'early adopters' of new technologies. The RBA survey shows the use of cheques is still heavily concentrated among older Australians. All personal cheque payments recorded in the 2019 survey were by respondents aged over 50, with 80 per cent of them made by people aged over 65. Even so, for consumers aged over 65, personal cheques represented less than 1 per cent of their number of weekly payments, down from about 2 per cent in 2007.

There is a significant opportunity cost for Australia in maintaining legacy payment and financial market infrastructure. These investments in legacy systems would be better spent on enhancing and developing additional functionality that utilises new payments infrastructure such as the New Payments Platform (**NPP**). The launch of this NPP in early 2018 allows consumers and businesses to make secure real-time, 24/7 payments with richer data (which also reduces accounting and administration costs for small business). The rate of take-up of fast retail payments in Australia is quicker than that in most other countries that have also introduced fast payments².

Moving to electronic payments delivers important benefits to customers and business.

- New payments infrastructure brings direct benefits. For example, during the recent bushfires, the Australian Government was able, via the RBA, to use the NPP to make *immediate* payments to people at a time when they were most in need.
- For businesses, faster payment methods will help to realise the economic benefits of the Governments Digital Economy reform agenda³ (such as e-invoicing, single touch payroll) by assisting with cash-flow management which is the lifeblood of any Australian small business.

The ABA proposes that the Government, in partnership with industry facilitate the careful phasing out of redundant legacy payment systems. The retirement of legacy technologies is critical for supporting a modern financial and payments eco system and meet the Government's ambition to be a leading digital economy by 2030. The ABA notes the work of AusPayNet in their Future State of Payments Plan, which provides an excellent starting point for the phase out of legacy payment systems⁴.

¹ The Reserve Bank of Australia (RBA), 2020, Research Discussion Paper RDP 2020-06: Consumer Payment Behaviour in Australia: Evidence from the 2019 Payments Survey retrieved February 2021 <https://www.rba.gov.au/publications/rdp/2020/2020-06.html>

² RBA, 10 December 2019, Speech by Philip Lowe, Governor "A Payments System for the Digital Economy" retrieved February 2021 <https://www.rba.gov.au/speeches/2019/sp-gov-2019-12-10.html>

⁴AusPayNet, 2020, Future State of Payments Action Plan: Conclusions from AusPayNet's Consultation, retrieved February 2021 https://www.auspaynet.com.au/sites/default/files/2020-08/APN_Future_State_Conclusions_Consultation_Paper_Aug20_0.pdf



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Retiring redundant payments infrastructure is good for the economy (Attachment A). The most recent source of information on the cost of cheques is the RBA 2014 Payment Cost Study which examined the costs borne by merchants, financial institutions, and individuals in the use of different payment methods. Using a set of simple assumptions, if the RBA's costs were applied to the number of cheques used in 2020, the ABA estimates that phasing out cheques reduces costs to the economy of up to \$250 million a year and those savings sit alongside other economic benefits. That said, since 2014 there have been technology advances that have likely to have lowered those cheque processing costs estimated by the RBA. However, cheque payments are an inherently physical payment therefore are likely to still be the highest-cost and slowest payment type for business and customers. An updated RBA Payment Cost Study could properly estimate the potential cost savings and benefits to the economy from the phasing out of legacy payment infrastructure.

A plan will provide a path to ensure that all businesses, customers, and governments have time to adopt one of the many alternative payment types already available (e.g. BPAY, EFTPOS, Osko). It will also provide a 'nudge' to those still using cheques to make the required changes and enable the payments industry to assist those remaining customers who prefer or rely on cheques.

The ABA would welcome any opportunity to discuss this submission further. Please contact me, Karen O'Brien, Policy Director on 0450 615 148 or karen.obrien@ausbanking.org.au if you have any further queries or seek further engagement.

Yours sincerely

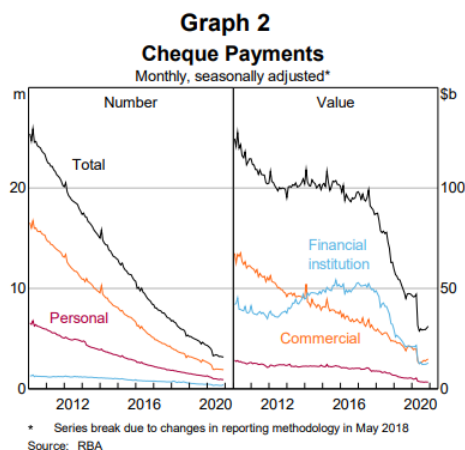
Karen O'Brien
Policy Director



Attachment A

The case to support the customer led transition to phase out cheques

The RBA believes it is important that the decline, and eventual closure, of legacy payment systems, such as cheques, occurs in a planned rather than disorderly manner⁵. Customers have been using cheques less and less over the years with an on average 20 per cent decline per year (see RBA Graph below).



Given this, the RBA consider that “it will be appropriate for the industry to wind up the cheque system, given the high cost of maintaining it and the increased availability of payment methods that can meet similar payment needs”.⁶

The ABA considers that the transition to digital payments has significant benefits to the economy and small business.

- The per-cost transaction cost of supporting cheque payments, which is already high relative to other payment methods, will continue to rise. SME’s face higher costs processing cheques given they do not have scale benefits. (according to the RBA 2020 and 2014 Payment Cost Reviews.),
- Reduces accounting administration costs through better data matching with e-invoices. Electronic payments provide more remittance data that can be matched automatically with e-invoices avoiding manual reconciliation.
- Much higher risk of non-payment for services/goods as cheque payment is not instantaneous and funds can be unavailable when presented for payment (i.e cheque ‘bounces’).
- Cheque funds do not clear immediately (requires five business days), and a cheque payment can be cancelled or revoked even after presentation.

⁵ RBA January 2021, Submission to the Payments System Review retrieved from https://treasury.gov.au/sites/default/files/2021-02/147719_rba.pdf

⁶ RBA January 2021, Submission to the Payments System Review retrieved from https://treasury.gov.au/sites/default/files/2021-02/147719_rba.pdf



Why now?

- If consumer demand continues at the same rate, cheque use will approach zero within the next five years.⁷ AusPayNet expects that a decision on the operational future of Australian Paper Clearance System (APCS) will need to be made within two years.
 - COVID-19 accelerated the take-up of electronic payments (such as ‘tap and go’ and card payments) payments given social-distancing requirements. The RBA considers that “the changes in spending patterns induced by the emergence of COVID-19 in Australia – including a further shift away from cash and increased online shopping – are likely to reinforce the trend to electronic payments”.
 - Banks ensured all account holders had access to a debit card given branch access was limited during COVID-19 lockdowns.
 - Australian governments implemented several measures to facilitate electronic transactions for large purchases such as housing during COVID-19 which are likely to be made permanent.
 - New payments platform (**NPP**) in place since 2018 allowing instant payments without disclosing bank details.
- Post-COVID 19 economic recovery needs to support small business to increase productivity and reduce costs, so it can better contribute to economic growth. Phasing out of cheques can help the productivity and efficiency of small business.

Why should Government get involved?

- There are significant economic benefits from modernising the payment system⁸.
 - An efficient payment system is essential infrastructure for economic growth. The ABA supports the Government’s view that digital systems are core to our everyday lives. Like all infrastructure investment, Government facilitation/coordination is necessary to ensure these economic benefits are fully captured.
- The phasing out of cheques is consistent with the Government’s strategy for a Digital Economy.
 - The Digital Technology Taskforce was established by the Prime Minister in November 2019. The Taskforce, hosted in the Department of the Prime Minister and Cabinet, is looking to ensure Australia is a leading digital economy by 2030.
 - Digital economy and technology Ministers agreed that great support for businesses to digitise was in place, but that more can be done. Helping businesses to fully move to digital payments will save money immediately and increase the data available for better business decisions.⁹ Existing Government programs to assist SMEs to become more digitised (such as JobMaker Digital Business Plan 2020) could be used to support small business transition to electronic payments.
- Australia needs a planned phase out of cheques if it wants to be a leading digital economy by 2030. Australia is comparatively behind several other countries (such as New Zealand) when it comes to the phasing out of old cheque payment technology.

⁷ AusPayNet, 2020, Future State of Payments Action Plan: Conclusions from AusPayNet’s Consultation, retrieved February 2021 https://www.auspaynet.com.au/sites/default/files/2020-08/APN_Future_State_Conclusions_Consultation_Paper_Aug20_0.pdf

⁸ Boston Consulting Group (BCG), 28 May 2019, “How Cashless Payments Help Economies Grow”, retrieved February 2021 <https://www.bcg.com/en-au/publications/2019/cashless-payments-help-economies-grow>

⁹ Australian Government, Department of Industry, Science, Energy and Resources 28 August 2020, National Meeting of Digital Economy and Technology Ministers Communiqué August 2020 retrieved February 2021 <https://www.industry.gov.au/news/national-meeting-of-digital-economy-and-technology-ministers-communique-august-2020>



Background

The declining use of cheques

The RBA 2019 Consumer Payment Survey confirmed that personal cheques are seldom used to make payments and states that the cheque payment should be retired. Australian consumers increasingly preferring to make their payments electronically and by card. The RBA survey provided further evidence of the long-term decline in the cheque system, with personal cheques accounting for only 0.2 per cent of the number of payments made during the week of the survey¹⁰.

Cheque use has plunged by more than 20% each year since 2016. The COVID pandemic seems to be accelerating this decline, with the RBA reporting a 15% decline in April 2020 alone. If current trends were to continue, there would be no cheques in circulation within five years. Australia is therefore now at the point where the public conversation can focus on the inevitability of the end of the cheques system.

Australia is not unique. The decline in cheque use is a global trend, but the rate at which this is happening varies from country to country. Between 2011 and 2015, Australia's drop in cheque use (-45.6%) exceeded that of most other similar countries including Canada (-25.6%), France (-24.6%) and the United Kingdom (-42.5%)¹¹.

The economic cost of cheques to Australia

Improvements in the efficiency of payment systems is recognised to be associated with greater growth in GDP and economic activity. The migration to efficient retail payment instruments stimulates the overall economy and trade, ultimately benefiting consumers with lower prices and better services. Moreover, retail payment transaction technology has proven to be positively associated with real economic aggregates. Therefore, the presence and diffusion of new payment technologies such as mobile and online payments may have a positive impact on economic growth and trade in a similar way as ATMs and point-of-sale (POS) terminals did when these became the main technologies for accessing funds and carrying out transactions, respectively.¹²

The phase out of cheques increases productivity and economic efficiencies for business in three ways¹³:

- Allows current investment in cheque systems and processes (largely a fixed cost) to be reinvested in digital technology to meet consumers current needs. Better digital payments technology is needed to capture the full efficiency benefits for business.
- Increases cashflow to business. Immediate payments can be made using the New Payment Platform and notification made to the receiver with funds immediately available in real time. In comparison, cheques can be used in payment, but funds are uncertain until the cheque is cleared.
- Reduces administration costs for both individual and business. Using and receiving cheques require significant administration time compared to other payment methods.
 - Cheques need to be deposited in a bank requiring a branch visit and statement reconciliation to ensure the funds have been received.
 - Payment information provided with cheques does not enable the full automation of accounting systems and e-invoicing, thereby increasing costs to business.

¹⁰ The Reserve Bank of Australia (RBA), 2020, Research Discussion Paper RDP 2020-06: Consumer Payment Behaviour in Australia: Evidence from the 2019 Payments Survey retrieved February 2021 <https://www.rba.gov.au/publications/rdp/2020/2020-06.html>

¹¹ AusPayNet, 2020, Future State of Payments Action Plan: Conclusions from AusPayNet's Consultation, retrieved February 2021 https://www.auspaynet.com.au/sites/default/files/2020-08/APN_Future_State_Conclusions_Consultation_Paper_Aug20_0.pdf

¹² European Central Bank (ECB), August 2019, Occasional Paper Series: Are instant payments becoming the new normal? A comparative study, No 229 retrieved in February 2021 <https://www.ecb.europa.eu/pub/pdf/scpops/ecb.op229~4c5ec8f02a.en.pdf>

¹³ Deloitte 2015, B2B Payments, 2015 Australian and New Zealand Research, retrieved in February 2021 <https://www.b2bpay.com.au/wp-content/uploads/2017/05/B2B-Payments-Report-August-2015.pdf>



Cheques as a form of payment were found (by the RBA in 2014) to be six times more costly to process per transaction than card payments. The most recent source of information on the cost of cheques is the Reserve Bank's 2014 Payment Cost Study which examined the costs borne by merchants, financial institutions, and individuals in the use of different payment methods¹⁴. If the total number of cheque payments for the 2020 calendar year (as published by the RBA¹⁵) were multiplied by the cost of cheques calculated by the RBA in 2014, the cost of cheque payments would be in excess of \$237 million (equivalent to over \$259 million in 2020). The potential savings, based on the RBA 2014 costings, if the cheapest method was used (direct debit), would be \$220 million, which is equivalent to over \$241 million in 2020.

Since 2014, there have been several advances in payment technology that are likely to have lowered payment costs. However, cheque payments are an inherently physical payment which limits the potential savings. Given this, it is likely to still be the costliest payment type. An updated RBA Payment Cost Study is needed to estimate properly the potential benefits to the economy from the phasing out of cheques.

The phasing out of cheque payments can help level the playing field in terms of administration costs for small business when competing with larger businesses. The RBA's 2014 research results indicate that costs to business (merchants) varies significantly across payment types. It notes that "SMEs face higher private costs from cheque payments given they do not benefit from the economies of scale that can be achieved by large merchants".

Increasing competition with non-bank payment providers

Cheques are a relatively costly payment instrument for financial institutions and many end users. Moreover, even though cheque use is likely to decline further, many of the overheads associated with the cheque system may remain largely unchanged, implying that average unit costs are likely to increase over time.¹⁶ There is an expectation that traditional banks will accept cheques and the Cheques Act is unclear on the extent of onus for a financial institution to accept a cheque.

This disparity of expectations between traditional and neo-banks regarding maintaining cheque payments disadvantages banks when competing with non-bank payment providers¹⁷. Payments remain a substantial factor in banks' operating cost base, sometimes representing as much as 30 to 40 percent, partly because of the high technology spend associated with providing payments services. A disproportionate share of effort and resources is required to maintain and improve infrastructure, manage upgrades, implement rule changes, and rationalise legacy technology. This reduces the available investment resources for financial digital innovation.

Overview of International plans to phase out cheques

The Australian Government is aiming to make Australia a leading digital economy and society by 2030 through its technology strategy.¹⁸ However, Australia is comparatively behind a number of other countries when it comes to the phasing out of cheque payments.

Other jurisdictions have recognised the economic benefits of modernising their payment systems by reducing and/or removing the use of cheques. Examples include the following.

- Major New Zealand banks and the state revenue service no longer accept or issue cheques as a method of payment from the end of 2021¹⁹.

¹⁴ Stewart C, I Chan, C Ossolinski, D Halperin and P Ryan (2014), 'The Evolution of Payment Costs in Australia', RBA Research Discussion Paper No 2014-14.

¹⁵ Reserve Bank of Australia, C5.1 Cheques Total number of cheques, <https://www.rba.gov.au/statistics/tables/xls/c05-1-hist.xlsx>

¹⁶ RBA June 2017, *Bulletin – June Quarter 2017*, The Ongoing Decline of the Cheque System, retrieved February 2021

<https://www.rba.gov.au/publications/bulletin/2017/jun/7.html>

¹⁷ McKinsey & Company October 2020, *The 2020 McKinsey Global Payments Report*, retrieved February 2021

<https://www.mckinsey.com/~media/mckinsey/industries/financial%20services/our%20insights/accelerating%20winds%20of%20change%20in%20global%20payments/2020-mckinsey-global-payments-report-vf.pdf>

¹⁸ Australian Government, Department of the Prime Minister and Cabinet, Developing a digital Australia Strategy, Retrieved February 2021

<https://www.pmc.gov.au/digital-technology-taskforce>

¹⁹ New Zealand Herald, 13 May 2020, BNZ, ANZ to ditch cheques as Covid-19 spurs shift to digital retrieved February 2021

<https://www.nzherald.co.nz/business/bnz-anz-to-ditch-cheques-as-covid-19-spurs-shift-to-digital/HNOJFARFOMYT2ZOYCNMSZ5JL7Q/>



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- UK began planning for the elimination of cheques in 2009 in response to declining cheque usage. Pay.uk is now implementing new payments architecture by 2030 which does not include cheques²⁰.
- Denmark turned off interbank cheque clearing in 2017 in response to the declining use of cheques.²¹
- Malaysia's Financial Sector Blueprint e-payment roadmap sets targets to reduce cheque usage by half between 2005 and 2020. Imposes increasing payment fees to users to better reflect the cost of cheques²²
- The Monetary Authority of Singapore aims to be cheque free by 2025.²³
- Reserve Bank of India (RBI) has attempted to reduce the usage of cheques and facilitate increased usage of electronic payments. ²⁴
- A number of South African Banks and the national revenue service aim to no longer issue and receive cheques from 1 January 2021²⁵.

²⁰ Pay.uk, New Payments Architecture programme retrieved February 2021 <https://www.wearepay.uk/programmes/>

²¹ The Telegraph, 16 November 2018, Personal Cheques Still Alive and Well in the United Kingdom in 2018, retrieved February 2021 <https://spectrum.ieee.org/riskfactor/computing/it/personal-cheques-still-alive-and-well-in-the-uk-in-2018>

²² Bank of International Settlements (BIS) 12 January 2018, Keynote address by Mr [Muhammad bin Ibrahim](#), Governor of the Central Bank of Malaysia (Bank Negara Malaysia), at the Payment System Forum & Exhibition 2017 "Mobile Payment: The Next Wave", Kuala Lumpur, , retrieved February 2021, <https://www.bis.org/review/r180112b.htm>

²³ The Straits Times 20 June 2018, Singapore to cut use of cash, aiming to become cheque-free by 2025: Ong Ye Kung, retrieved February 2021 <https://www.straitstimes.com/business/banking/singapore-aiming-to-become-a-cheque-free-country-by-2025-ong-ye-kung>

²⁴ Reserve Bank of India (RBI), 24 November 2017, Mint Street Memo No 07, "From Cash to non-cash and cheque to Digital" The unfolding revolution in India's Payment Systems retrieved February 2021 https://m.rbi.org.in/Scripts/MSM_Mintstreetmemos7.aspx

²⁵ Businesstech 13 November 2020, SARS signals the end of cheques in South Africa retrieved February 2021 <https://businesstech.co.za/news/banking/448246/sars-signals-the-end-of-cheques-in-south-africa/>

Attachment B

Summary: e-transactions reforms

Government	Reform	Progress	Next steps
Commonwealth	Under s127 and s129 Corporations Act: <ul style="list-style-type: none"> • Ensure company officers can use e-signatures to sign company documents. • Allow electronic split execution of corporate deed and company documents. • Enabling or explicitly acknowledging that 'documents' under the Corporations Act can be electronic. 	<p>Government has consulted on making electronic transactions and virtual meetings reforms permanent () and is extending temporary reforms to 15 September 2021 (link).</p> <p>ABA has made a submission supporting the proposal to make reforms permanent (link).</p> <p>Treasury consulted on electronic signatures and witnessing in Modernising Business Communications consultation paper (link).</p>	Temporary electronic transactions reforms being made permanent.
	Commonwealth coordination	ABA working with Deregulation Taskforce and Council of Federal Relations to seek nationally harmonised reforms.	Coordination to achieve nationally harmonised reforms.
NSW	Enabling electronic creation, signing and witnessing of all documents, including legal documents and forms.	<p>Emergency legislation passed on 25 March (Link).</p> <p>On 28 September, NSW parliament passed the Stronger Communities Legislation Amendment (Courts and Civil) Act 2020 (NSW), which extends temporary reforms to end-2021 (Link).</p>	<p>Temporary audio-visual witnessing reforms being made permanent.</p> <p>Consider further, nationally harmonised reforms including removing witnessing for deeds.</p>
	Enabling electronic mortgages including electronic signing.	ORG has amended Conveyancing Rules to allow electronic signing of paper land dealings, which will expire on 31 March 2021 (Link)	ARNECC and jurisdictional registrars to consider any reforms needed to enable fully electronic mortgages.



		ARNECC has previously amended the addendum to the National Mortgage Form for NSW specifying that witnessing is not required for the mortgage signed by the mortgagor and held by the mortgagee if the mortgage is lodged in accordance with s56(1A) of the Real Property Act (link).	
Victoria	<p>Enabling electronic creation, signing and witnessing of all documents, including legal documents and forms.</p> <p>Enabling electronic mortgages such as by:</p> <p>Removing the requirement for mortgages to be witnessed, which could be done by amending the applicable approved form.</p>	<p>Emergency legislation (Link) and regulations (Link) extended to 26 April 2021.</p> <p>Legislation introduced to make reforms permanent (link).</p> <p>Seeking clarity and guidance from Land Use Victoria on fully electronic mortgages, including whether the counter-mortgage needs to be in approved form.</p>	<p>Parliament to consider legislation making temporary reforms permanent.</p> <p>Consider any further changes needed to ensure nationally harmonised reforms.</p> <p>ARNECC and jurisdictional registrars to consider any reforms needed to enable fully electronic mortgages.</p>
South Australia	<p>Enabling electronic creation, signing and witnessing of all documents, including legal documents and forms.</p>	<p>Emergency legislation passed and extended to 6 February 2021 (Link) While the emergency legislation permits meetings of two or more persons to be held by audio-visual means, Regulations <i>excluded</i> witnessing of documents. (Link)</p> <p>Emergency regulations (section 16 regulations) made to suspend the requirement that the corresponding or counterpart mortgage be executed by the mortgagee (Link).</p> <p>ABA has provided a submission to SA supporting the reforms being made permanent.</p>	<p>Temporary electronic mortgage reforms being made permanent.</p> <p>Consider further, nationally harmonised reforms.</p>
Queensland	<p>Enabling electronic creation, signing and witnessing of all documents, including legal documents and forms.</p>	<p>Emergency legislation passed (Link).</p> <p>Emergency regulations made enabling electronic signatures and remote witnessing for deeds, mortgages and powers of attorney</p>	<p>Introduce legislation to make temporary reforms permanent.</p> <p>Consider any further changes needed to ensure nationally harmonised reforms, such</p>



		<p>Link). These reforms have been extended to 30 April 2021.</p> <p>ABA has written to QLD supporting the temporary reforms being made permanent.</p>	<p>as persons who are eligible to witness documents.</p>
	<p>Enabling electronic mortgages by clarifying that mortgages can be e-signed without witnessing, or in the alternative allowing remote witnessing.</p>	<p>Interim guidance issued by the Dept of Natural Resources, Mining and Energy about what will be acceptable for paper executions and witnessing during the pandemic (Link).</p>	<p>ARNECC and jurisdictional registrars to consider any reforms needed to enable fully electronic mortgages.</p>
<p>Western Australia</p>	<p>Enabling remote witnessing of documents.</p>	<p>Legislation enables remote witnessing of documents under Land Information Act, Oaths, Affidavits and Statutory Declarations Act and Planning and Development Act (Link).</p>	<p>Introduce legislation to make temporary reforms permanent.</p> <p>Consider any further changes needed to ensure nationally harmonised reforms.</p> <p>ARNECC and jurisdictional registrars to consider any reforms needed to enable fully electronic mortgages.</p>
<p>Tasmania</p>	<p>Enabling electronic creation, signing and witnessing of all documents, including legal documents and forms.</p>	<p>Emergency legislation passed. Legislation enables Minister to declare that signing and witnessing of documents can be done by electronic means. No declaration has been made.</p>	<p>Consider changes needed to ensure nationally harmonised reforms.</p> <p>ARNECC and jurisdictional registrars to consider any reforms needed to enable fully electronic mortgages.</p>
<p>Commonwealth</p>	<p>On 28 September ASIC issued <i>ASIC Credit (Electronic Precontractual Disclosure) Instrument 2020/835</i>. This instrument preserves the effect of previous class order which is due to expire on 1 April 2021. It addresses a technical issue in the legislation and enables pre-contractual disclosures to be given electronically where the</p>	<p>We are seeking amendments to the National Consumer Credit Protection regime, to permit disclosure digitally without consent, provided the customer is given 7 days to opt out of this method, and the providing entity notifies the client that the disclosure is available and how to access it.</p>	



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requirements set out in the NCCP Regulations are met.

Commonwealth

The *Electronic Transactions Regulations 2000* were replaced with updated *Electronic Regulations 2020*. This update removed the broad requirement that documents and notices under the Credit Act could only be sent electronically only after detailed pre-consent disclosures had been given and the customer had consented in writing.

Obligations still exist under the NCCP Regulations to provide pre-consent disclosures to a consumer and obtain consent before providing documents electronically.

Commonwealth

Electronic provision of financial services disclosure under the Corporations Act 2001.

Relief was granted under [ASIC Corporations \(Facilitating Electronic Delivery of Financial Services Disclosure\) Instrument 2015/647](#) to facilitate the delivery of disclosures electronically.

Further reform to allow for differences in treatment of electronic notifications and hard copy notifications. For example, if document emailed, currently an entity must have certainty an email address was provided for the purpose of receiving such notifications. If using 'publish and notify' methods (e.g. an email with a link to content) an ongoing ability to opt out must be provided to the customer prior to the notification being sent. This required entities to must identify customers and store their preferences.

Attachment C: Legislation referring to payment by cheque (Source: AusPayNet)

Instrument	Extract of Text
Commonwealth	
<p>(1) Dental Benefits Act 2008 (Cth), section 14</p>	<p>14 Payment of dental benefits to dental providers if a request is made</p> <p><i>Scope</i></p> <p>(1) This section applies if:</p> <p>(a) dental benefit is payable under section 11 to a person in respect of a dental service; and</p> <p>(b) the person has not paid the dental expenses that the person incurred in respect of the dental service.</p> <p><i>Dental benefit not to be paid to the person</i></p> <p>(2) Dental benefit is not to be paid to the person.</p> <p><i>Dental benefit to be paid to the dental provider if a request is made</i></p> <p>(3) The person may request the Chief Executive Medicare to:</p> <p>(a) give the person personally; or</p> <p>(b) send by post to the address specified by the person;</p> <p>a cheque for the amount of dental benefit payable in respect of the dental service in lieu of a payment to the person under section 11 in respect of the dental service.</p> <p>(4) The Chief Executive Medicare must comply with a request under subsection (3).</p> <p>(5) A cheque given or sent as requested under subsection (3) must be drawn in favour of the dental provider by whom, or on whose behalf, the dental service was rendered.</p>
<p>(2) Defence Service Homes Act 1918 (Cth) Schedule 1</p>	<p>Schedule 1 - Agreement between the Commonwealth of Australia and Westpac Banking Corporation</p> <p>7. Application/Review - General</p> <p><i>7.4 Nominated Payee</i></p> <p>The Bank agrees that where it is specified in the Certificate of Entitlement that payment is to be made to a nominated payee, the Bank shall draw a bank cheque in favour of that nominated payee and make available same to the Borrower.</p>



Instrument	Extract of Text
	<p><i>9.4 Loan Interest Offset Arrangement</i></p> <p>If the Bank provides a loan interest offset arrangement then:</p> <p>9.4.4 the Bank will permit the Borrower to withdraw funds at any time by way of cheque.</p> <p>Schedule 1A</p> <p>3.5 Unit Fee</p> <p>Payment shall be made by depositing a cheque for the relevant amount with the Receiver of Public Monies, Department of Veterans' Affairs, Sydney, New South Wales or in such other manner as the Commonwealth may from time to time advise.</p>
<p>(3) Superannuation (Government Co-contribution for Low Income Earners) Act 2003 (Cth) section 23</p>	<p>23 Small underpayments</p> <p>If:</p> <p>(a) the Commissioner makes a determination under section 19 in relation to a Government cocontribution in respect of a person for an income year; and</p> <p>(b) the underpaid amount is less than \$5; and</p> <p>(c) the underpaid amount is to be paid by cheque to:</p> <p>(i) the person; or</p> <p>(ii) the person's legal personal representative;</p> <p>the amount of the cocontribution is increased by the difference between \$5 and the underpaid amount.</p>
New South Wales	
<p>(4) Water Management Act 2000 (NSW) s 189</p>	<p>189 Banking of money</p> <p>(1) All money received by or on account of a private irrigation board must be paid into a bank or authorised deposit-taking institution chosen by the board.</p> <p>(2) Every payment of \$2.00 or more by or on behalf of a private irrigation board must be by cheque on the bank or authorised deposit-taking institution drawn and countersigned as prescribed by the regulations.</p> <p>(3) Payments of less than \$2.00 may be made out of a petty cash fund, replenished from time to time by cheque drawn and countersigned as prescribed by the regulations.</p>



Instrument	Extract of Text
<p>(5) Casino Control Regulation 2009 (NSW) s 29</p>	<p>29 Payment of prize money by cheque</p> <p>If the total prize money payable to a person exceeds \$2,000, the casino operator must:</p> <p>(a) notify the person, verbally or by the use of signs or other similar means, that the person may request the total prize money (or part of it) be paid by means of crossed cheque, and</p> <p>(b) if the person makes any such request, pay the amount requested by means of a crossed cheque payable to the person.</p> <p>Maximum penalty: 50 penalty units.</p>
<p>(6) Casino Control Act 1992 (NSW) s 70(2)</p>	<p>70 Conduct of gaming</p> <p>(2) The requirements for the exchange and redemption of chips (other than chips issued for use in a tournament or for training purposes) and chip purchase vouchers are as follows:</p> <p>(a) chip purchase vouchers are to be exchanged for chips at the request of the patron,</p> <p>(b) chips are to be exchanged for other chips at the request of the patron,</p> <p>(c) chips or chip purchase vouchers (other than complimentary chip purchase vouchers) are to be redeemed for a cheque at the request of the patron (if the patron requests a cheque), or wholly or partly for money (with a cheque for any balance) if the patron so requests and the casino operator concurs,</p> <p>(c1) a complimentary chip purchase voucher must not be wholly or partly redeemed for money or a cheque,</p> <p>(d) a cheque in payment for redeemed chips or chip purchase vouchers must be made payable to the patron and drawn on a bank, building society or credit union approved by the Authority,</p> <p>(e) any exchange or redemption of chips or chip purchase vouchers is to be for their full value without any deduction.</p>
<p>(7) Independent Commission Against Corruption Regulation 2017 (NSW) section 18</p>	<p>18 Gifts presented to the Minister as an act of goodwill</p> <p>(1) If the offer of a gift is an act of goodwill towards the people of New South Wales and offence might possibly be given by its rejection, the Minister may accept the gift.</p> <p>(2) If such a gift has a market value of more than \$500, the Minister must elect either to:</p> <p>(a) retain the gift and pay to the State the difference between \$500 and the value of the gift, or</p> <p>(b) hand the gift to the State.</p> <p>(3) If the Minister elects to retain the gift under subclause (2) (a), the Minister must provide the Secretary of the Department of Premier and Cabinet with a written declaration signed by the Minister:</p> <p>(a) identifying the giver of the gift, and</p> <p>(b) stating that the Minister wishes to retain the gift, and</p>



Instrument	Extract of Text
	<p>(c) stating the estimated value of the gift (attaching a valuation or details as to the methodology by which the value was estimated), and (d) attaching a cheque payable to the NSW Treasury for the relevant amount.</p>
<p>(8) Gaming Machine Regulations 2019 (NSW)</p>	<p>26 Payment of prize money by cheque or electronic funds transfer</p> <p>(1) A hotelier or registered club must pay so much of the total prize money payable to a person as exceeds \$5,000— (a) by means of a crossed cheque payable to the person, or (b) if the person so requests, by means of electronic funds transfer (if those means are available to the hotelier or club) to an account nominated by the person. Maximum penalty—50 penalty units.</p> <p>(2) If the total prize money payable to a person exceeds \$5,000, a hotelier or registered club must, if the person so requests, pay the whole of the total prize money in the same manner as is required under subclause (1). Maximum penalty—50 penalty units.</p> <p>(3) In this clause— account means an account with a financial institution. crossed cheque means a cheque crossed as referred to in section 53 of the Cheques Act 1986 of the Commonwealth. total prize money means the total monetary value of credits displayed on an approved gaming machine at the end of a session of play on that machine. To avoid doubt, the total monetary value of credits is not subject to any deduction for the value of money inserted into the machine by the player.</p>
Queensland	
<p>(9) Gaming Machine Act 1991 (Qld) s 242</p>	<p>242 Payments for gaming</p> <p>(1) This section applies to a licensee or licensed monitoring operator who is required to make a payment for— (a) an amount for winnings, or gaming machine credits, that is not made by a gaming machine; or (b) the redemption of gaming tokens.</p>



Instrument	Extract of Text
	<p>(2) The licensee or licensed monitoring operator must make the payment— (a) if paragraph (b) does not apply—with Australian currency; or (b) if, under a regulation or the ancillary rules, the payment is required to be made in a way prescribed under the regulation or stated in the rules—in the way prescribed or stated. Maximum penalty—200 penalty units.</p> <p>(3) Subsection (2) does not apply to a licensee or licensed monitoring operator for a payment that, apart from this subsection, would be required to be made with Australian currency if, at the request of the person entitled to receive the payment, the licensee or operator makes the payment by— (a) gaming tokens (other than Australian currency); or (b) a cheque; or (c) a combination of Australian currency, gaming tokens (other than Australian currency) and a cheque.</p>
<p>(10) Gaming Machine Regulation 2002 (Qld) schedule 3</p>	<p>Schedule 3 Rules ancillary to gaming</p> <p>7(1)For section 242(2)(b) of the Act, a licensee required to make a payment to a player, for a cancelled credit or jackpot payout, that is more than the cash limit for the licensed premises in which the player became entitled to the payment must make the payment in one of the following ways— (a)an amount equal to the cash limit in Australian currency and the balance of the payment by cheque; (b)if requested by the player— (i)an amount less than the cash limit in Australian currency and the balance of the payment by Previous cheque; or (ii)the entire payment by cheque.</p> <p>(2)For subitem (1), the cash limit for the licensed premises is the amount, of not more than \$5,000, stated by the licensee in a document that is displayed adjacent to, and in the same way as, the rules ancillary to gaming for the licensed premises.</p> <p>(3)For making a payment under subitem (1)— (a)if part of the payment is in Australian currency—the licensee must pay the Australian currency when the player claims payment; and (b)the licensee must give a cheque to the player or post it to the player’s address, within 24 hours after the player claims payment.</p>



Instrument	Extract of Text
(11) First Home Owner Grant Regulation 2010 (Qld) s 5	<p>5 Methods of payment</p> <p>An amount payable to the Commissioner under the Act must be paid by bank draft, cash or cheque.</p>
(12) Keno Regulation 2007 (Qld) section 15I	<p>15I Unpaid prize money</p> <p>(1) Unpaid prize money must be paid by cheque to the chief executive as soon as practicable after becoming unpaid prize money.</p> <p>(2) In this section—</p> <p>unpaid prize money means the prize money for a winning wager not paid to, or to the order of, the prize winner within—</p> <p>(a) if the chief executive approves a period—the approved period; or</p> <p>(b) if the chief executive does not approve a period—5 years after the day on which the wager was made.</p> <p>winning wager see section 15J.</p> <p>15K Unredeemed keno dollars</p> <p>(1) Unredeemed keno dollars must be paid by cheque to the chief executive as soon as practicable after becoming unredeemed keno dollars.</p> <p>(2) In this section –</p> <p>Keno dollars means a voucher for use at a keno terminal in place of money to make a wager, give change from a wager or pay winnings.</p> <p>Unredeemed keno dollars means keno dollars not used or redeemed for cash within –</p> <p>(a) if the chief executive approves a period – the approved period; or</p> <p>(b) if the chief executive does not approve a period – 5 years after the day they were issued.</p>
Victoria	
(13) Forestry Pulp and Paper Company's Afforestation Contract Act	<p>17. Payment of dividends</p> <p>Unless otherwise directed any dividend may be paid by cheque or warrant sent through the post to the registered address of the member or person entitled or in the case of joint holders to the registered address of that one whose name stands first on the register in respect of the joint holders; and every cheque or warrant so sent shall be made payable to the order of the person to whom it is sent.</p>



Instrument	Extract of Text
1949 (Vic) section 17	
(14) Accident Compensation Act 1985 (Vic) section 92C(4)	<p>92C Payment of weekly pensions</p> <p>(4) A payment of a weekly pension may be made by post by properly addressing, prepaying and posting to the person entitled to the weekly pension a letter containing a cheque for the amount.</p> <p>134AB Actions for damages</p> <p>(36A) If judgment is obtained, or a compromise or a settlement is made, in respect of proceedings referred to in subsection (1) and the worker was, at the date of the judgment, compromise or settlement, still in receipt of compensation in the form of weekly payments, where pecuniary loss damages are awarded against the Authority, employer or self-insurer, the Authority, employer or self-insurer must, until the date on which a cheque is drawn for the purpose of payment of the judgment, compromise or settlement, pay to the worker a weekly amount equal to the net weekly amount that, but for subsection (36), would have been payable to the worker as compensation in the form of weekly payments in respect of the injury.</p> <p>135A Actions for damages</p> <p>(18AA) If judgment is obtained, or a compromise or a settlement is made, in respect of proceedings referred to in subsection (1) and the worker was, at the date of the judgment, compromise or settlement, still in receipt of compensation in the form of weekly payments, where pecuniary loss damages are awarded against the Authority, employer or self-insurer, the Authority, employer or self-insurer must, until the date on which a cheque is drawn for the purpose of payment of the judgment, compromise or settlement, pay to the worker a weekly amount equal to the net weekly amount that, but for subsection (18), would have been payable to the worker as compensation in the form of weekly payments in respect of the injury.</p>
(15) Local Government Act 1989 (Vic) s 5(1)(d)	<p>5 Nomination form</p> <p>(1) A candidate for election must—</p> <ul style="list-style-type: none"> (a) complete a nomination form containing the details required by the regulations; and (b) sign the nomination form; and (c) make a declaration in writing containing the details required by the regulations; and



Instrument	Extract of Text
	(d) pay to the Victorian Electoral Commission the nomination fee of \$250 or such higher amount as is prescribed in cash or by cheque drawn on account of an authorised deposit-taking institution.
(16) Electoral Act 2002 (Vic) s 69(4)	<p>69 Nomination of candidates</p> <p>(4) There must be delivered with a nomination form referred to in subsection (2) or (3) the sum of \$350 paid in cash or by cheque drawn on account of an authorised deposit-taking institution within the meaning of the Commonwealth Banking Act 1959.</p>
(17) Casino Control Act 1991 (Vic) section 81AAB26	<p>81AAB Payment of winnings and cashing of cheques</p> <p>(1) A casino operator must not pay out, or allow another person to pay out, winnings or accumulated credits exceeding \$2000 from a gaming machine to a person except by cheque. Penalty: 50 penalty units.</p> <p>(2) Subsection (1) does not apply to a game played on a gaming machine located in an area specified by notice of the Commission published in the Government Gazette if the casino operator complies with the conditions, if any, specified in the notice.</p> <p>(3) A casino operator must, at the request of a person, pay out any winnings or accumulated credits from a gaming machine to the person by cheque. Penalty: 50 penalty units.</p> <p>(4) A casino operator must not, at the casino, give, or allow another person to give, a person cash or gaming tokens in exchange for a cheque drawn on an account of the casino operator to enable that person to play a gaming machine in the casino. Penalty: 50 penalty units.</p>
Western Australia	
(18) Classification (Publications, Films and Computer Games) Enforcement Regulations	<p>Form 1 - Infringement notice</p> <p>Paying the modified penalty</p>

²⁶ Note that there are other sections in this act where reference is made to payments by cheque but they have not been included in this table because the reference in question already offers an alternative (ie, payment by cheque or cash).



Instrument	Extract of Text
1996 (WA) Schedule 2 – Forms	You may pay the modified penalty — 1. BY POSTING a cheque or money order made payable to [details to be inserted here]; OR 2. IN PERSON to [details to be inserted here].
(19) Cat Regulation 2012 (WA) Schedule 1 - Forms	Form 6 - Infringement notice How to pay By post Send a cheque or money order (payable to ‘CEO [Relevant local government] — Cat Act 2011’) to — CEO [Relevant local government and address] In person Pay the cashier at — [Relevant local government and address]
(20) Casino Control Regulations 1999 (WA) Schedule 1 – Prescribed form	Form 1 - Infringement notice 5. Payment may be made by completing item 6 and either — (a) posting this form and a cheque, money order or postal note for the amount of the modified penalty specified in item 2, to the Gaming and Wagering Commission, P.O. Box 6119, East Perth, W.A. 6892; or (b) delivering this form and paying the amount to the Gaming and Wagering Commission, 1st Floor, Hyatt Centre, 87 Adelaide Terrace, Perth, W.A. 6000.
(21) Caravan Parks and Camping Grounds Regulations 1997 (WA)	Form 3. Infringement Notice 1. You may dispose of this matter within 28 days after the service of this notice by paying the modified penalty — (a) BY POSTING a cheque or money order made payable to; or



Instrument	Extract of Text
Schedule 1 - Forms	(b) IN PERSON AT (address of local government offices)
Northern Territory	
(22) Electoral Act 2004 (NT) s 32(1)	<p>32 Nomination form</p> <p>(1) The nomination must:</p> <p>(a) be in the approved form; and</p> <p>(b) state the name, residential address and occupation of the nominee; and</p> <p>(c) if the nomination is made by 6 electors entitled to vote at the election – state whether the word "Independent" is to be printed on the ballot paper; and</p> <p>(d) contain a statement that the nominee consents to be nominated under this Division and to act as an MLA if elected; and</p> <p>(e) contain a declaration signed by the nominee that the nominee is qualified in accordance with Part III, Division 2 of the Self-Government Act to be a candidate for election as an MLA; and</p> <p>(f) be accompanied by a photograph of the nominee complying with the requirements prescribed by the Regulations; and</p> <p>(g) be accompanied by a deposit of \$200 (the nomination deposit) in cash or an ADI cheque; and</p> <p>(h) be signed by the nominee and the nominator or each nominator.</p>
(23) Long Service Leave Act 1981 (NT) s 11(8)	<p>11 Payment for long service leave</p> <p>(8) An employer and an employee may agree that:</p> <p>(a) where they have made an agreement under section 8(6) to postpone the grant of long service leave or a part of it, the pay payable in respect of that postponed leave is to be at the employee's rate of pay on the date of the agreement, and payment in respect of that postponed leave is to be made accordingly; or</p> <p>(b) payment of the employee's pay in respect of long service leave he or she is to take is to be paid at a time other than a day referred to in subsection (6) and that payment be made by cheque, posted to a specified address or otherwise, and payment in respect of that leave is to be made accordingly.</p>
(24) Agents Licensing Act 1979 (NT) section 52 (3)	<p>52 Operation of trust account</p> <p>(3) A licensed agent shall not pay money out of a trust account maintained by him or her except by means of a cheque made payable to a specified person, being a cheque that is crossed and marked "not negotiable".</p> <p>94 Establishment of Fund</p>



Instrument	Extract of Text
	<p>(7) Subject to the determinations, if any, made by the Minister under subsection (6), the Fund shall:</p> <p>(c) ensure that each cheque of the Fund is signed by the Registrar and another member of the Fund or, in the absence of the Registrar, by the 2 other members of the Fund.</p>
Tasmania	
25) Residential Tenancy Act 1997 (Tas) s 21	<p>21 Receipt for rent paid</p> <p>On receiving rent in cash or by cheque from a tenant, an owner is to give the tenant a receipt stating –</p> <ul style="list-style-type: none">(a) the date on which it was received; and(b) the name of the tenant; and(c) the residential premises in respect of which the rent is paid; and(d) the amount of rent paid; and(e) the period to which the payment relates.