

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

1) The *nemo dat rule* states that:

- A) you can acquire a better title than the one that was held by the person who gave it to you.
- B) rights to title can always be transferred if the transferor is willing.
- C) you cannot acquire a better title than the one that was held by the person who passed it to you.
- D) rights to title cannot be transferred unless the transferee is willing.

Answer: C

2) What is the name of a bill of exchange that is issued by a trading bank and guarantees payment of a specified amount to the holder at a guaranteed time?

- A) A trade bill.
- B) A finance bill.
- C) A bank bill.
- D) An IOU bill.

Answer: C

3) Which of the following statements is not true about bills of exchange?

- A) Businesses cannot issue bills of exchange but they can buy and sell them.
- B) They are often held by several parties before being presented for payment.
- C) They are often used to raise short term finance for commercial transactions.
- D) They play an important role in providing credit for international transactions.

Answer: A

4) Which of the following does not appear as part of the definition of a cheque under s 10(1) of the *Cheques Act 1986*?

- A) 'requiring a financial institution to pay on demand'.
- B) 'a certain sum of money'.
- C) 'addressed by one party to another party'.
- D) 'An unconditional order in writing'.
- E) 'signed by the person who gives the cheque'.

Answer: C

5) Which of the following statements is not true in relation to order cheques?

- A) The holder must sign the cheque on the back before handing it to a third party.
- B) If a holder fails to write 'not negotiable' on the cheque it cannot be transferred to a third party.
- C) Most government cheques are order cheques.
- D) They are negotiated by 'indorsement and delivery'.

Answer: B

6) Which of the following statements is not true in relation to bearer cheques?

- A) If cheques are not order cheques they are bearer cheques.
- B) They are negotiated by delivery to a third party.
- C) They are negotiated by 'indorsement and delivery'.
- D) A cheque that states 'Pay Metropolitan Insurance Pty Ltd or bearer' must be a bearer cheque.

Answer: C

7) If a cheque is 'payable to bearer' this means the cheque:

- A) can be transferred by indorsement.
- B) can be transferred by delivery.
- C) cannot be transferred because of the *nemo dat rule*.
- D) can be transferred by indorsement and delivery.

Answer: B

8) Daniela found Jessica's handbag in the street. There was an order cheque for \$500 in the bag that was payable to Jessica. The cheque was not crossed (i.e. there were no parallel lines). Daniela forged Jessica signature and indorsed the cheque to Jim because she owed him money. Which statement best sums up Jim's legal rights, if any, in relation to the cheque?

- A) Jim does not have legal title to the cheque. Order cheques require a signature and a forged signature is not valid.
- B) Jim will have legal title to the cheque provided the cheque does not include the words 'not negotiable'.
- C) Jim will have legal title because an uncrossed order cheque is not subject to the *nemo dat rule*.
- D) Jim does not have legal title to the cheque. Order cheques must be transferred by endorsement and delivery and delivery has not taken place.

Answer: A

9) Inserting two transverse parallel lines across a cheque instructs a financial institution that:

- A) it is now subject to the *nemo dat rule*.
- B) it can no longer be indorsed. If the cheque is not endorsed it will be void.
- C) it can be cashed and should not be placed into an account with a financial institution.
- D) it must be paid into an account with a financial institution.

Answer: D

10) The words "not negotiable" on a cheque mean:

- A) the cheque cannot be negotiated or transferred.
- B) the cheque can be transferred.
- C) the holder of the cheque has the same title to the cheque as the person from whom they obtained it.
- D) the cheque must be signed by the drawee.

Answer: C

11) The words 'not negotiable' on a cheque mean that:

- A) the financial institution is liable if it does not pay to the payee.
- B) the cheque may not be transferred to another person.
- C) the holder's title is only as good as that of the previous holder.
- D) a thief will face criminal charges if he/she tries to obtain money or goods by using the cheque.

Answer: C

12) An important rule in regard to the negotiability of cheques is that:

- A) Some cheques are not subject to the *nemo dat rule*. They can be negotiated provided they are crossed with two parallel lines.
- B) all cheques are subject to the *nemo dat rule*.
- C) the *nemo dat rule* applies to cheques that are crossed 'not negotiable'.
- D) no cheques are subject to the *nemo dat rule*.

Answer: C

- 13) Which of the following statements is not accurate in relation to the words 'account payee' on a cheque?
- A) The words prevent the cheque being transferred to someone else.
 - B) The words are not recognised by the *Cheques Act 1968* as a valid crossing on a cheque.
 - C) A collecting institution that collects a cheque for a customer who is not the specified payee may be liable to the true owner of the cheque.
 - D) The words warn a collecting institution that the cheque must be paid into the account of the specified payee.
- Answer: A
- 14) Which of the following statements is not true in relation to a 'holder in due course' in relation to a cheque?
- A) They take the cheque 'subject to defects in title' and may not succeed in enforcing payment if it is not paid.
 - B) They must have provided valuable consideration in return for the cheque.
 - C) They are entitled to payment even if the cheque is subject to 'defects in title'.
 - D) They have the right to sue on and enforce the cheque if it is not paid.
- Answer: A
- 15) A financial institution may classify a cheque as 'stale' and not pay the holder in due course if how many months has passed since it was drawn?
- A) 15 months. B) 14 months. C) 12 months. D) 13 months.
- Answer: A
- 16) In *Commonwealth Trading Bank of Australia v Sydney Wide Stores*, the High Court held that:
- A) financial institutions do not have a duty to contact the drawer of a cheque to confirm if the amount payable is correct.
 - B) customers do not have a duty to draw cheques carefully.
 - C) financial institutions have a duty to pay a cheque that has been materially altered.
 - D) customers have a duty to draw cheques carefully to avoid material alterations.
- Answer: D
- 17) When customers of a financial institution draw (write) a cheque that institution has a duty:
- A) not to pay a cheque that contain the drawee's forged signature or a fraudulent alteration.
 - B) to obey the customer's instructions, including crossings and other directions.
 - C) to honour (pay) the cheque if there are sufficient funds.
 - D) to comply with all of the above.
 - E) to comply with A and B only.
- Answer: D
- 18) Cheque account holders owe common law duties to their financial institutions. Which of the following statement(s) is/are true regarding these duties?
- A) They must draw cheques carefully so they are not easily altered or forged and advise the bank of any known forgeries.
 - B) They must check periodic bank statements and notify the bank of any unauthorised debts.
 - C) They must take all reasonable steps to prevent forged cheques being presented for payment e.g., by not leaving a cheque book where it could easily be stolen.
 - D) They must strike out the words 'or bearer' on a cheque and cross the cheque 'not negotiable'.
 - E) They owe all of the above duties
- Answer: A

19) In *National Australia Bank v Hoki*, the court ruled that:

- A) Financial institutions are likely to be liable if they fail to detect a forged signature even it has little or no chance of detecting the forgery.
- B) Cheque account holders are not liable when their signatures are forged unless they fail to advise the institution as soon as they learn about the forgeries.
- C) Cheque account holders are not liable when their signatures are forged unless they drew the cheque in way that left the cheque vulnerable to fraudulent activity.
- D) All of the above.
- E) A and B only applied.

Answer: D

20) Margaret's husband Phil forged her signature on several cheques and cashed them at her bank. When Margaret found out she made Phil promise he would not do it again. One month later she discovered that Phil had recently cashed three more forged cheques. If Margaret sues the bank to recover the value of the first batch of forged cheques she will probably be:

- A) unsuccessful because she knew about the forgeries and is estopped (stopped) from denying the signatures were genuine.
- B) successful because financial institutions should not pay cheques with forged signatures
- C) successful because she told Phil to stop forging her signature.
- D) unsuccessful because financial institutions have not been liable since 1968 for mistakes regarding forged signatures

Answer: A

21) If a financial institution collects a cheque for someone who is not the true owner it may commit the tort of conversion and be liable to the true owner for damages. What is the institution's main statutory defence?

- A) The customer failed to write 'not negotiable' across the cheque.
- B) The financial institution was negligent but acted in good faith.
- C) The financial institution acted in good faith and without negligence.
- D) The forged signature was so good it could only be detected by an expert.

Answer: C

22) When customers of financial institutions draw (write) cheques they have a common law duty:

- A) to draw cheques carefully so they are not easily forged or altered
- B) to report forgeries as soon as the customer knows about them.
- C) to regularly monitor their cheque accounts and advise the institution of any unauthorised use
- D) to comply with all of the above
- E) to comply with A and B only

Answer: E

23) Which of the following does not regulate Electronic Funds Transfers?

- A) Consumer protection laws
- B) The National Credit Code.
- C) The Code of Banking Practice.
- D) The Building Society Code of Practice.
- E) The *Cheques Act 1968*.

Answer: E

- 24) Which of the following statements is not true in relation to the Electronic Funds Transfer (EFT) Code?
- A) If an institution claims a user has committed fraud the user is obliged to prove he/she is innocent.
 - B) A financial institution has a contractual obligation to obey the EFT once it has adopted the code.
 - C) The EFT is a voluntary code.
 - D) If a secret code was used to carry out an unauthorised transaction and there is no evidence of a fraud or a breach of security requirements the account holder can be required to pay up to \$150.

Answer: A

- 25) I have an internet banking account. Last week someone accessed my account using my password and removed \$5000 from my account. My bank has warned me against including my birth date and name in my password but I have been too busy to make this change. Based on the Electronic Funds Transfer (EFT) Code what legal rights does my bank have in this situation?
- A) It has the right to claim back any legal or administrative costs involved in investigating the fraud.
 - B) It is obliged to refund my losses minus \$150.
 - C) It is obliged to refund my losses provided it has not proof that I have committed any fraud.
 - D) It has the right to refuse to refund my losses.

Answer: D

- 26) I have an internet banking account. Last week I mislaid my wallet that included the password to my account. I phoned my bank two days later when I realised I must have dropped the wallet in the street, Then I found out that someone accessed my account using my password and removed \$5000. Based on the Electronic Funds Transfer (EFT) Code what legal rights does my bank have in this situation?
- A) It has the right to refuse to refund my losses.
 - B) It is obliged to refund my losses minus \$150.
 - C) It is obliged to refund my losses provided it has not proof that I have committed any fraud.
 - D) It has the right to claim back any legal or administrative costs involved in investigating the fraud.

Answer: C