

Parliament House
George Street
Brisbane Qld 4000

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Via email only: sdric@parliament.qld.gov.au

To whom it may concern,

Australian Payments Network (AusPayNet) welcomes the opportunity to respond to the consultation on the *Justice Legislation (COVID-19 Emergency Response – Permanency) Amendment Bill 2021*.

Australian Payments Network (AusPayNet) is the industry association and self-regulatory body for the Australian payments industry. AusPayNet manages and develops rules, procedures, policies and standards governing payments. We have over 140 members, encompassing participants in, and operators of, Australia's payment systems.

AusPayNet's responsibilities include:

- Controlling and managing risk in the Australian payments system;
- Coordinating the operation of effective payment systems through facilitating industry collaboration, governance frameworks and system-wide standards; and
- Developing industry policies and rules for the operation of payment systems relating to cheques; direct debit and credit; cards and accepting devices; high value payments; and the distribution of cash in Australia.

Documents Reforms

This submission is focused on the 'Documents Reforms' section of the Bill. AusPayNet supports the Bill's stated objective to permanently implement certain aspects of the temporary arrangements to allow individuals, businesses and government to continue to use digital technology to meet their needs. We support the proposal that this will reduce transaction costs, and increase efficiency.

Technology Neutrality in Payment Methods

The Bill's Explanatory Note states that:

"As technology is constantly evolving, the Bill deliberately adopts a technology-neutral approach to electronic signatures so that the legislation is sufficiently flexible to keep pace with technology and be responsive to emerging issues, including developments in other jurisdictions."

In principle, AusPayNet strongly supports technology neutrality in legislation. The focus of this submission is to recommend that this technology neutral approach be extended to all Queensland legislation insofar as it refers to payment methods, and particularly where it encourages payment by

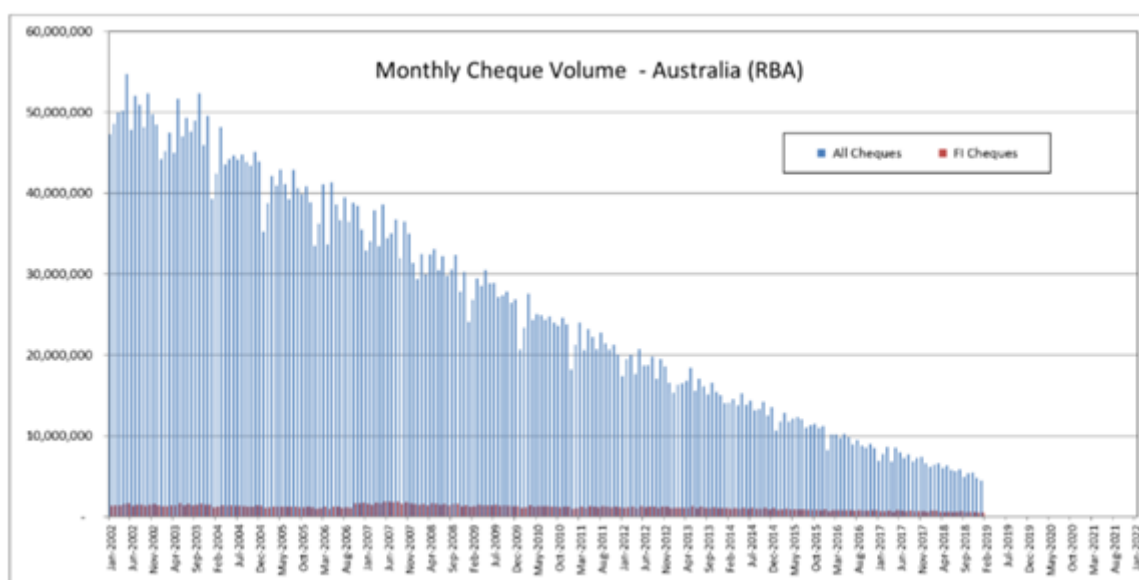
cheque. The Explanatory Notes to the Bill note that “As a result of the COVID-19 emergency and the advent of lockdowns and restrictions on meeting in person, individuals, businesses and government have been required to adapt and engage with digital technology to find new ways of working without being physically present.” Our submission complements the policy objectives of the Bill by seeking to minimise the need for physical cheque signature and physical attendance at bank branches and post offices.

Our submission also supports AusPayNet’s previous request to the office of Queensland Treasurer in October 2019 seeking their assistance to amend legislation in response to the customer-led decline in the use of cheques.

Then Treasurer, Ms Trad, responded noting that three quarters of the legislation we identified was currently payment neutral, but that the government will make efforts to update the rest as it works through its legislative program. We are grateful for the response and for any subsequent progress.

Decline in the Use of Cheques

Cheque use is in long-term decline. Between 2002 and 2019, the number of cheques used in Australia fell by 91% and they now account for only 0.2% of consumer payments.¹



The COVID-19 pandemic appears to have accelerated both the decline in cheque use and the uptake of digital payments. RBA figures show that in the two years from 1 July 2019 to 30 June 2021, which includes the onset of COVID-19 in early 2020, cheque use plummeted by 42%.² This has coincided with the issuance of a record number of debit cards.³

¹ RBA (accessed 2 Feb 2021), Payments Data: Table C5.1 ([link](#)); and RBA (Sep 2020), Consumer Payment Behaviour in Australia: Evidence from the 2019 Consumer Payments Survey ([link](#))

² As above.

³ As above.

The decline in cheque use has been led by consumers and merchants, attracted by the improved convenience and lower cost of digital payment methods. As the rate of decline accelerates, as stated by RBA Governor Philip Lowe, “it will be appropriate at some point to wind up the cheque system, given the high fixed costs involved in operating the system”.⁴

With the goal of ensuring that there are no regulatory barriers to businesses and consumers using more efficient payment methods, AusPayNet has identified Queensland legislation and regulations that specify or include options for payment by cheque.

We request that the Government reviews and takes action on the relevant legislation identified, to either remove specific references to cheques or amend terminology to reflect payment method neutrality as appropriate. Some examples that warrant attention include:

- the use of cheque as the preferred withdrawal method from a trust account (Legal Profession Act 2007);
- the requirement for dual signatories on a cheque (Agents Financial Administration Act 2014);
- payment of gaming winnings by cheque;
- the ability of a landlord to require residential rent to be paid by cheque (Residential Tenancies and Rooming Accommodation Act 2008); and
- the outdated payment of camping fees by cheque.

Please see the Appendix for the list of Queensland legislation that we have identified that refers to payment by cheque.

Summary

The objective of the Bill – to promote technology neutrality – presents a parallel opportunity to introduce payment method neutrality. AusPayNet welcomes the opportunity to work with Queensland’s State Development and Regional Industries Committee on the issues we have identified. Alongside this, we welcome the opportunity to explore digital payment options with Government departments.

If the Committee has any further questions in relation to this submission, please [REDACTED] in the first instance.

Yours sincerely,



Andy White
Chief Executive Officer

⁴ Philip Lowe, RBA Governor, in his [address to the Australian Payment Summit in December 2018](#).

Appendix: Queensland Legislation Referring to Payment by Cheque

Instrument	Extract of text
Agents Financial Administration Act 2014	<p>44 Financial institution must comply with direction</p> <p>(1) After a direction has been given to a financial institution under section 42(2), and until it is withdrawn, the financial institution must not—</p> <p>(a) pay a cheque or other instrument drawn on the account stated in the direction unless the cheque or instrument is also signed by the chief executive; or</p> <p>(b) give effect to another transaction on the account that is not authorised because of the direction.</p> <p>Maximum penalty—</p> <p>(a) for an individual guilty of an offence under chapter 2 of the Criminal Code—200 penalty units or 1 year’s imprisonment; or</p> <p>(b) for a corporation—1000 penalty units.</p>
Associations Incorporation Regulation 1999	<p>45 Funds and accounts</p> <p>(4) A payment by the association of \$100 or more must be made by cheque or electronic funds transfer.</p> <p>(5) If a payment of \$100 or more is made by cheque, the cheque must be signed by any 2 of the following—</p> <p>(a) the president;</p> <p>(b) the secretary;</p> <p>(c) the treasurer;</p> <p>(d) any 1 of 3 other members of the association who have been authorised by the management committee to sign cheques issued by the association.</p>

Building Boost Grant Act 2011	<p>34 How grant must be paid</p> <p>(1) A building boost grant must be paid—</p> <p>(a) by electronic funds transfer, cheque or in any other way the commissioner considers appropriate; and</p> <p>(b) to—</p> <p>(i) the applicant; or</p> <p>(ii) someone else to whom the applicant directs the commissioner in writing to pay the grant.</p> <p>(2) If the applicant requests, the commissioner can apply the amount of a building boost grant, or part of the amount, towards a liability for State taxes, fees or charges.</p>
Instrument	Extract of text
Casino Control Act 1982	<p>65 Obligations of casino operator in relation to conduct of games</p> <p>(5) A casino operator must ensure that all winning wagers are paid—</p> <p>(a) in chips; or</p> <p>(b) by cash or cheque; or</p> <p>(c) by depositing the payment to a person’s player account; or</p> <p>(d) by ticket; or</p> <p>(e) in another way approved by the chief executive.</p> <p>Maximum penalty—100 penalty units.</p>
First Home Owner Grant and Other Home Owner Grants Act 2000	<p>21 Payment of grant</p> <p>(1) A first home owner grant is to be paid by electronic funds transfer, by cheque or in any other way the commissioner considers appropriate.</p>
First Home Owner Grant Regulation and Other Home Owner Grants Regulation 2021	<p>5 Methods of payment</p> <p>An amount payable to the Commissioner under the Act must be paid by bank draft, cash cheque or using an electronic payment method.</p>

Forestry Act 1959	<p>35A When camping permit is taken to have been granted</p> <p>(4) If a person applies by self-registration, the camping permit is taken to have been granted when—</p> <p>(a) the person fills in a camping form for the self-registration camping area, in the way stated on the form; and</p> <p>(b) the person—</p> <p>(i) puts the camping fee, either in cash or a cheque, in the camping fee envelope together with the part of the form designed to accompany the camping fee; or</p> <p>(ii) fills in the credit card payment section of the camping fee envelope; and</p> <p>(c) if the person pays by cash or cheque, the person seals the envelope; and</p> <p>(d) the person puts the envelope in the camping fee container.</p> <p>(5) However, if—</p> <p>(a) a person pays for a camping permit by cheque, and the cheque is dishonoured; or</p> <p>(b) a person pays for a camping permit by credit card, and the person’s financial institution does not authorise the payment;</p> <p>the camping permit is taken not to have been granted.</p>
Instrument	Extract of text
Gaming Machine Act 1991	<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—</p> <p>(a) an amount for winnings, or gaming machine credits, that is not made by a gaming machine; or</p> <p>(b) the redemption of gaming tokens.</p> <p>(2) The licensee or licensed monitoring operator must make the payment—</p> <p>(a) if paragraph (b) does not apply—with Australian currency; or</p> <p>(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.</p> <p>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—</p> <p>(a) gaming tokens (other than Australian currency); or</p> <p>(b) a cheque; or</p> <p>(c) a combination of Australian currency, gaming tokens (other than Australian currency) and a cheque.</p>

<p>Gaming Machine Regulation 2002</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—</p> <p>(a) an amount equal to the cash limit in Australian currency and the balance of the payment by cheque;</p> <p>(b) if requested by the player—</p> <p>(i) an amount less than the cash limit in Australian currency and the balance of the payment by cheque; or</p> <p>(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)—</p> <p>(a) if part of the payment is in Australian currency—the licensee must pay the Australian currency when the player claims payment; and</p> <p>(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>
<p>Instrument</p>	<p>Extract of text</p>
<p>Geothermal Energy Regulation 2012</p>	<p>79 Annual rent - Act, s 130</p> <p>(1) For section 130(1) of the Act, the annual rent payable for each geothermal tenure is stated in schedule 2.</p> <p>(2) The annual rent, or a pro-rata amount of the annual rent if the period to which the rent relates is less than a year, must be paid on or before—</p> <p>(a) on the grant of the geothermal tenure, if the Minister has not already required payment of the rent—the 20th business day after the geothermal tenure takes effect; or</p> <p>(b) otherwise—31 August each year.</p> <p>(3) If the annual rent is paid for a year and the geothermal tenure ends during the year, the proportion of the rent that relates to the remainder of the year may be refunded.</p> <p>(4) The annual rent must be paid by cash, cheque, credit card transaction or electronic transfer of funds.</p>

<p>Geothermal Energy Regulation 2012</p>	<p>80 Security for geothermal tenure - Act, s 204</p> <p>(1) For section 204(2)(a) of the Act, the following forms of security are prescribed—</p> <p>(a) cash;</p> <p>(b) cheque;</p> <p>(c) electronic transfer of funds;</p> <p>(d) an unconditional security issued by a financial institution that—</p> <p>(i) is in favour of the ‘State of Queensland’ and is payable on demand; and</p> <p>(ii) has no expiry date; and</p> <p>(iii) states—</p> <p>(A) the type and number of the geothermal tenure or proposed geothermal tenure; and</p> <p>(B) the address of the financial institution; and</p> <p>(iv) is signed for the financial institution by an officer who has authority to sign the security;</p> <p>(e) a combination of the forms mentioned in paragraphs (a) to (d).</p>
<p>Industrial Relations Act 2016</p>	<p>373 Paying wages</p> <p>(2) An employer must pay each employee’s wages—</p> <p>(a) in Australian currency; or</p> <p>(b) with the employee’s written consent—</p> <p>(i) wholly or partly to the employee’s credit in an account with a financial institution nominated by the employee; or</p> <p>(ii) by cheque of a type mentioned in subsection (5), draft, money order or electronic fund transfer; or</p> <p>(c) in another way allowed under a relevant industrial instrument.</p> <p>Maximum penalty—16 penalty units.</p>
<p>Instrument</p>	<p>Extract of text</p>
<p>Keno Regulation 2007</p>	<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>Legal Profession Act 2007</p>	<p>250 Withdrawing trust money from general trust account</p> <p>(1) A law practice must not withdraw trust money from a general trust account otherwise than by—</p> <p>(a) cheque; or</p> <p>(b) if the practice is authorised by the law society to withdraw trust money from a general trust account by electronic funds transfer—electronic funds transfer.</p>

	Maximum penalty—50 penalty units.
Legal Profession Act 2007	<p>252 Withdrawing controlled money from controlled money account</p> <p>(1) A law practice must not withdraw controlled money from a controlled money account otherwise than by—</p> <p>(a) cheque; or</p> <p>(b) if the practice is authorised by the law society to withdraw controlled money from a controlled money account by electronic funds transfer— electronic funds transfer.</p> <p>Maximum penalty—50 penalty units.</p>
Local Government Act 2009	<p>118 Financial controllers</p> <p>(5) If a financial controller is appointed, a payment from an account kept by the local government with a financial institution may be made only by -</p> <p>(a) a cheque countersigned by the financial controller; or</p> <p>(b) an electronic funds transfer authorised by the financial controller.</p>
Manufactured Homes (Residential Parks) Act 2003	<p>63 How site rent to be paid</p> <p>(4) Site rent is paid in an approved way if it is paid in any of the following ways -</p> <p>(a) cash;</p> <p>(b) cheque;</p> <p>(c) deposit to a financial institution account nominated by the park owner under the agreement;</p> <p>(d) credit card;</p> <p>(e) an EFTPOS system;</p> <p>(f) deduction from pay, or a pension or other benefit, payable to the home owner;</p> <p>(g) another way agreed on by the park owner and home owner.</p>
Instrument	Extract of text

Recreation Areas Management Act 2006	<p>36 How to obtain a camping permit</p> <p>(1) Subject to subsection (3), an application for a camping permit must be—</p> <p>(a) made to the chief executive; and</p> <p>(b) supported by sufficient information to enable the application to be decided.</p> <p>(2) The applicant must also pay the permit fee before the application is decided.</p> <p>(3) For a self-registration camping area a person may—</p> <p>(a) fill in a camping form for the area in the way stated on the form; and</p> <p>(b) either—</p> <p>(i) place the camping fee in cash or a cheque in the camping fee envelope and seal the envelope; or</p> <p>(ii) properly complete and sign the credit card payment section of the camping form; and</p> <p>(c) put the envelope in the camping fee container.</p>
Residential Tenancies and Rooming Accommodation Act 2008	<p>83 How rent to be paid</p> <p>(4) Rent is paid in an approved way if it is paid by—</p> <p>(a) cash; or</p> <p>(b) cheque; or</p> <p>(c) deposit to a financial institution account nominated by the lessor; or</p> <p>(d) credit card; or</p> <p>(e) an EFTPOS system; or</p> <p>(f) deduction from pay, or a pension or other benefit, payable to the tenant; or</p> <p>(g) another way agreed on by the lessor and tenant.</p>
Residential Tenancies and Rooming Accommodation Act 2008	<p>98 How rent to be paid</p> <p>(4) Rent is paid in an approved way if it is paid by—</p> <p>(a) cash; or</p> <p>(b) cheque; or</p> <p>(c) deposit to a financial institution account nominated by the provider; or</p> <p>(d) credit card; or</p> <p>(e) an EFTPOS system; or</p> <p>(f) deduction from pay, or a pension or other benefit, payable to the tenant; or</p> <p>(g) another way agreed on by the provider and resident.</p>
Taxation Administration Act 2001	<p>29 Methods of payment</p> <p>(1) An amount payable under a tax law must be paid to the commissioner—</p> <p>(a) by cash or cheque; or</p> <p>(b) as prescribed under a regulation.</p> <p>(2) This section applies subject to section 29A.</p>