

**UNIFORM LAW CONFERENCE OF CANADA  
CIVIL SECTION**

**CASH PAYMENTS WORKING GROUP – POLICY REPORT**

**Presented by the Working Group**

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## a. WORKING GROUP MEMBERSHIP AND MEETING REPORT

[1] The working group was formed and began its work in the Fall of 2024. Its members are:<sup>1</sup>

Codie Chisholm, Lawson Lundell LL.P.  
Michelle Cumyn (Chair), McGill University Faculty of Law  
Brian Elliott, Government of Canada  
Neil Karkut, Government of Saskatchewan  
Andrew Luesley, University of Victoria Faculty of Law  
Robert Russo, University of British Columbia Faculty of Law  
Patrick Windle, Government of New Brunswick

The working group has met five times since its formation.

## b. BACKGROUND

[2] This project was added to the program of the Uniform Law Conference of Canada [ULCC] by the Advisory Committee on Program Development and Management [ACPDM] in 2022. The topic commended itself to the ACPDM as a Civil Section project because of policy concerns associated with the decline in the use of cash.

[3] A report on cash payments in the form of a memorandum and policy review was presented to the Civil Section at the annual meeting of August 2024 held in Ottawa.<sup>2</sup> The Civil Section resolved “THAT the progress report of the working group on cash payments be accepted; THAT the working group continue its work in accordance with the directions of the civil section; and THAT the working group report back to the ULCC at the 2025 annual meeting.”

## c. APPLICATION

[4] The working group’s primary focus has been to consider and propose a mandatory rule to ensure that consumers may use cash to pay for goods or services. The policy being pursued is to protect consumers who are unbanked or underbanked from financial exclusion. In addition, the new rule would encourage the continued use of cash, thus protecting all consumers in the event of a breakdown in technology. Finally, affording consumers the choice between cash and other forms of payment makes them less dependent on financial institutions and money services providers and protects their privacy.

[5] If access to cash is difficult – as it may be in remote communities -, this affects consumers’ ability to use cash for purchasing goods or services. The working group has noted that in the UK, the Financial Conduct Authority is developing an Access to cash regime that will oblige financial institutions to provide sufficient coverage in all parts of the country.<sup>3</sup> Access to cash is beyond the scope of the current project but might be considered as another area for reform.

[6] In Canada, a private member’s Bill presented by Conservative MP Ted Falk in 2024 proposed a framework including measures to:

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(a) ensure that all persons in Canada have access to cash by ensuring, among other things, that the necessary infrastructure is present across Canada to allow cash withdrawals and deposits, and determining a reasonable distance for people to travel to withdraw or deposit cash;

(b) protect the ability of persons in Canada to continue to use cash despite the availability of digital currencies, including cryptocurrencies;

(c) incentivize businesses and creditors to accept payments made in cash;

(d) remove barriers and disincentives in relation to donations made in cash to non-profit organizations and community organizations, without compromising efforts to curtail money laundering, fraud and other financial crimes; and

(e) ensure the long-term viability of Canada's cash infrastructure — which includes the equipment and facilities required for the sorting, storing and distribution of cash — by ensuring that it remains effective, resilient and sustainable.<sup>4</sup>

There is a consensus in Canada and in several other countries that governments should protect the continued use of cash for the reasons mentioned previously.

[7] The working group used as its primary model a local law of the City of New York introduced in 2020 that makes it unlawful for retail establishments to refuse payments in cash for consumer products (see Schedule).<sup>5</sup> The working group was mindful of the costs to businesses of handling cash and providing change to their customers. By considering a monetary cap and a rule on the obligation to provide change, the working group sought to limit such costs while still protecting consumers.

[8] The working group originally designed the mandatory rule for “basic necessities”. It finally decided on a slightly broader scope by designing it for offline consumer transactions whose value does not exceed \$200. Such a rule would be more effective in maintaining the use of cash for all consumers including the most vulnerable. All consumers would benefit from a rule that protects their autonomy and privacy, while guarding against overreliance on technology.

[9] The working group also considered a set of default rules to codify and clarify the law regarding payment of a money obligation in a way that supports the legal tender status of cash while allowing for other forms of payment. Indeed, the Chair had obtained from the ULCC the mandate to consider forms of payment other than cash. However, the working group has realised that this would be a different and much more ambitious project than the one which is presented here. It would involve preparing a foundational piece of legislation like the *Sale of Goods Act*, with the added challenge that changes in technology make it difficult to settle on stable principles. Therefore, the working group has decided not to follow that route.

### d. CONSULTATIONS

[10] The working group has not undertaken any consultations.

### e. ISSUE IDENTIFICATION AND ANALYSIS

#### General Context and Policy Concerns

[11] This section summarizes the information from our previous report<sup>6</sup> with added knowledge gained by the

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working group.

[12] In Canada, cash is used in 22% of all purchases, and it accounts for 12% of the value of all purchases.<sup>7</sup> There was a sharp decline in the use of cash during the COVID-19 pandemic, but its use is relatively stable since then.<sup>8</sup> Canada has been listed amongst the 10 “most cashless countries” in the world.<sup>9</sup>

[13] The rarefication of cash raises several concerns canvassed by the Bank of Canada in a recent report.<sup>10</sup> The Bank of Canada has studied the possibility of introducing a central bank digital currency that would resemble cash in its chief characteristics; however, it currently has no plans to launch such a currency.<sup>11</sup>

[14] Cash has specific benefits by virtue of being an offline currency: it is resilient, inclusive, and private. However, it also has drawbacks. It is costly for businesses and financial institutions to handle and may facilitate crime and tax evasion.

[15] The importance of cash becomes apparent to most of us when there is a breakdown in technology, as experienced on July 8, 2022, with the Rogers network outage. Interac was closed for several hours, and businesses were no longer able to accept debit card transactions. Another example occurred in New Brunswick in 2025. The province-run liquor and cannabis stores were only able to accept cash payments for approximately two weeks because of a potential cybersecurity issue. As these examples illustrate, the availability of cash makes the payment system more resilient.<sup>12</sup>

[16] A minority of Canadians (1 to 3% of the adult population) do not have a bank account, while others (up to 15% of the adult population) do not have appropriate access to financial services: they are unbanked or underbanked. They tend to be low-income households, people in remote communities, including Indigenous peoples, persons who are physically or mentally challenged, including the elderly, and new Canadians. The rarefication of cash makes many goods and services unavailable to them. It effectively excludes them from the Canadian economy.<sup>13</sup>

[17] An important concern also relates to privacy. Digital payments generate data concerning the identity and location of the payer, the amount of the transaction and the types of goods or services that are being purchased. Such data is used for market analysis, credit risk assessment and product development. Cash payments are more private, though the payer is physically present at the point of sale.<sup>14</sup>

[18] Payments in cash are costly for businesses and financial institutions because handling cash is burdensome and presents a risk of theft. Debit cards have the lowest costs. Credit cards are expensive for businesses because of the incentives offered to consumers, but they generally cost less than cash. There is a concern that the rarefication of cash could result in decreased competition, such that payment services providers will be able to exact higher fees.<sup>15</sup>

[19] The Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) is a federal agency that imposes reporting requirements on financial institutions and payment services providers to detect payments that may relate to criminal activity or constitute money-laundering. Cash is sometimes used to pursue illegal activities, for money-laundering and to avoid detection. To impede the use of cash for such purposes, several European States prohibit payments in cash above a certain amount.<sup>16</sup> For example, French law prohibits payments in cash above 1,000 euros in the case of most debts.<sup>17</sup> The EU has introduced a 10,000-euro cap for cash payments that will enter into force in 2027.<sup>18</sup> In Canada, residents must declare any currency in their possession that is valued at \$10,000 or more when entering the country, financial institutions must report large deposits of cash to FINTRAC, and legislation at the federal level might soon prohibit payments in cash above 10 000\$<sup>19</sup>

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[20] The desire for privacy encourages the use of alternative digital currencies such as cryptocurrencies or stablecoins. Cryptocurrencies are inconvenient because of high transfer costs, lack of scalability and volatility. They may trigger a taxable event and a capital gains tax.<sup>20</sup> Nevertheless, certain businesses allow the use of cryptocurrencies as payment, or offer the purchase of gift cards using cryptocurrencies, which can then be used as payment.<sup>21</sup> As users are increasingly aware, cryptocurrencies are not fully anonymous. Transactions are not tied to a person's name, but the blockchain is a public ledger in which transactions can be traced to wallet addresses.

Stablecoins are a form of virtual currency whose value is pegged to an external reference such as a fiat currency or the price of a commodity. They are potentially less volatile and easier to use for payment. They may prove to be a popular alternative to national currencies.

### Legal Context and Areas of Uncertainty

[21] There is legal uncertainty regarding the use of cash as a form of payment. It is unclear the extent to which a seller or creditor may validly refuse payment in cash under current law.

[22] Article 1564 of the *Civil Code of Québec* provides that “[w]here the debt consists of a sum of money, the debtor is released by paying the nominal amount due in money which is legal tender at the time of payment.” This implies that a seller or creditor may not refuse payment in cash. The parties may vary this rule by mutual agreement. Thus, a merchant can exclude payment in cash by posting a sign that is visible to the consumer before they enter into a contract. Such a notice is incorporated into the contract and has the effect of overriding the rule.

[23] Article 1564 does not contemplate cases in which a seller or creditor might justifiably refuse payment in cash, for example if it involves a large sum of money. Moreover, it does not protect individuals who do not have access to alternative forms of payment. A rule mandating acceptance of cash would be necessary effectively to protect consumers.<sup>22</sup>

[24] Article 1564 refers to “money which is legal tender,” *ie* coins issued by the Royal Canadian Mint and notes issued by the Bank of Canada, as specified by the federal *Currency Act*:

- 8 (1)** Subject to this section, a tender of payment of money is a legal tender if it is made
- (a) in coins that are current under section 7 [issued by the Royal Canadian Mint]; and
  - (b) in notes that are current under section 7.1 [issued by the Bank of Canada].
- (2)** A tender of payment in coins referred to in subsection (1) is a legal tender for no more than the following amounts for the following denominations of coins:
- (a) forty dollars if the denomination is two dollars or greater but does not exceed ten dollars;
  - (b) twenty-five dollars if the denomination is one dollar;
  - (c) ten dollars if the denomination is ten cents or greater but less than one dollar;
  - (d) five dollars if the denomination is five cents; and
  - (e) twenty-five cents if the denomination is one cent.

[25] In civilian jurisdictions, including those of continental Europe, the legal tender status of notes and coins normally implies that a seller or creditor must accept them in payment. Thus, the Court of Justice of the European Union recently ruled that “the concept of ‘legal tender’ of a means of payment denominated in a currency unit

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signifies, in its ordinary sense, that that means of payment cannot generally be refused in settlement of a debt denominated in the same currency unit, at its full face value, with the effect of discharging the debt.”<sup>23</sup>

[26] Common law jurisdictions do not appear to attach the same consequences to legal tender. Thus, the Bank of Canada has issued statements suggesting that both parties must agree to a method of payment. It describes legal tender as a

technical term meaning the Government of Canada has deemed them to be the official money we use in our country. [...] Today, money is not just bank notes but takes many different forms: credit cards, debit cards, cheques, and contactless payments using mobile devices. You can pay with any of these forms of money, even though they are not considered “legal tender.” In fact, anything can be used if the buyer and seller agree on the form of payment. So “legal tender” has little impact on our everyday lives.<sup>24</sup>

According to the Bank of Canada, the *Currency Act* does not imply that a seller or creditor must accept a payment in cash within the limits set out in section 8.<sup>25</sup>

[27] In the absence of agreement between the parties, Canadian law is unclear whether the payor or the payee may choose amongst available forms of payment. The law also lacks clarity regarding the conditions in which a given method of payment provides good discharge of a money obligation.

## f. OPTIONS FOR CONSIDERATION

### Definitions

[28] The working group discussed key concepts and definitions. It considered the use of “cash”, “money”, “currency” and “legal tender” in Canadian legislation and concluded that “cash” is the correct term to use. Cash consists in notes and coins that are current under s 7 and 7.1 of the *Currency Act*. The French term is “espèces”.

[29] The working group suggests that two other terms be defined along the following lines:

“Consumer product” means “an article, good, merchandise, service, product or commodity produced, provided or offered for retail sale for consumption by individuals, or for personal, household or family purposes.”

“Retail establishment” means “an establishment wherein consumer products are sold, displayed or offered for sale, or where services are provided to consumers at retail.”

Note that a consumer product might include the following services: postal services, a laundromat, a key cutting service, a movie theater, health services, a dentist, a vet, a repair shop, a garage or a gym.

The intention is to include an establishment that occupies physical premises such as a shop, where products are offered for sale on the premises; and to exclude transactions where a product is delivered to a consumer’s home or payment is made online or upon delivery (see s 2).

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### Mandatory rule requiring acceptance of cash for certain consumer transactions

[30] The working group suggests that the following consumer transactions be included or excluded, as the case may be:

1. It shall be unlawful for the following establishments to refuse a payment in cash from a consumer:
  - a retail establishment for any consumer product;
  - an establishment that offers for sale food or beverages to the public, including a restaurant, counter, pushcart, stand or vehicle;
  - an establishment that provides nightly accommodation, including a hostel, motel or hotel;
  - an establishment that provides public transportation within Canada;
  - a public utility that provides energy, Internet or telephone services.
  
2. S. 1 does not apply:
  - where a product is purchased and paid for by telephone, by mail, by email or through the Internet;
  - to home renovation services;
  - to a bank or financial institution;
  - to the payment of rent in a residential tenancy;
  - in other cases determined by regulation.

The working group considered data from Statistics Canada on household spending to identify the principal consumer transactions to be covered by the rule. Note that the rule is designed to protect consumers. If the owner of a business purchases a product for their business, the rule does not apply.

There was discussion about whether restaurants that provide table-side service should be mandated to accept cash. The working group concluded that mandatory acceptance was appropriate, while the \$200 cap ensures that large transactions are not affected. A similar rationale applies to hotels and other establishments that provide nightly accommodation.

An important concern was the ability to pay in cash for public transportation and public utilities, particularly in remote communities. The ability to pay in cash for public utilities such as energy, Internet and telephone services is important for the protection of consumers, as several cases illustrate.<sup>26</sup> Public utility companies may have stores; if not, they can make arrangements with financial institutions or other establishments allowing customers to pay in cash (see s 6). The working group wondered whether there might be pushback from publicly owned public utilities but felt that the rule should apply to them as well.

Provincial and territorial residential tenancy acts generally do not specify accepted modes of payment for rent, though they sometimes require that the mode of payment be specified in the tenancy agreement. Disputes sometimes arise regarding a tenant's ability to pay their rent in cash.<sup>27</sup> It could be appropriate to address this issue in the context of residential tenancy legislation.

The working group noted that provincial and territorial innkeeper's acts do not contain provisions in relation to payment.

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[31] The working group suggests the following limitations to the mandatory rule:

3. Despite s 1, an establishment is not required to accept:
  - A payment in cash for an amount in excess of \$200;
  - Bank notes denominated above \$20;
  - A payment that includes more than 25 coins.

The working group considered caps higher than \$200. The group also considered varying the amount of the cap based on the type of transaction. The group concluded that a relatively low cap is in keeping with the objective of protecting the unbanked and the underbanked while considering costs to businesses. A single cap was chosen for reasons of clarity and simplicity.

Large bank notes present a security risk for businesses.<sup>28</sup> They also increase the cost of providing change. There have been situations where individuals attempted to pay with a large number of coins, which is why it is suggested to limit the total number of coins that an establishment must accept. The working group considered referring to s 8(2) of the *Currency Act* in that regard. However, the 25-coin rule is simpler and more practical. There does not appear to be a conflict between this rule and the *Currency Act* considering its interpretation by the Bank of Canada and the courts.

[32] The working group further suggests the following rules concerning the acceptance of cash at full face value, the provision of change and payment to a public utility:

4. Where a payment lies within the limits set out in s 3, an establishment may not charge a higher price to a consumer who pays in cash, nor may it offer a discount to a consumer who chooses another form of payment.
5. An establishment must provide change, except where providing change would be impractical given the nature of the payment facility. In such a case:
  - The establishment need not provide change if the amount payable is a fixed rate clearly communicated to the public;
  - In the absence of a fixed rate, change must be provided up to the nearest dollar.

A list of establishments exempted from the obligation to provide change may be determined by regulation.

6. A public utility accepts payments in cash at its offices or by making reasonable arrangements through a bank, post office, pharmacy or other establishments; it must provide sufficient coverage in remote communities.

In relation to s 5, the working group considered the case of a city bus or recreational facilities such as a swimming pool or a hiking trail.

In relation to s 6, the working group considered examples of public utilities that enable their customers to pay for services in certain establishments such as a financial institution or a pharmacy.

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### Sanctions and remedies

[33] The working group finally proposes the following sanctions and remedies:

7. An establishment that refuses to accept payment in cash in violation of the preceding rule is liable to punitive damages and/or a fine.
8. If an establishment refuses to accept payment in cash of an existing money obligation and no payment is made, the consumer's money obligation is not discharged. However,
  - The establishment may not claim any interest or other costs in respect of the money obligation;
  - The creditor may not withhold future performance that is due in consideration for the money obligation;
  - The creditor may not treat the contract as repudiated; and
  - The creditor is liable for losses caused by the refusal.

The working group considered civil remedies instead of fines but concluded that it would place too great an onus on a consumer to pursue their own remedy considering the value of the transaction.

In the civil law, failure to perform one's obligation under a contract can justify the other party to withhold their own performance (exception of nonperformance or *exceptio non adimpleti contractus*) (see art 1591 of the *Civil Code of Québec*). This remedy is distinct from treating the contract as repudiated (see art 1605).

[34] The above rules are mandatory. This could be made explicit by using language such as the following:

The provisions of this Act apply despite any agreement to the contrary, and any waiver or release of the rights, benefits or protections provided under this Act is void.

Every contract is deemed to be amended to the extent necessary to conform with this Act.

### g. NEXT STEPS

[35] If the policy options in this Report are accepted by the ULCC at its 2025 annual meeting, the working group will reconvene in the Fall of 2025 to produce a draft uniform act, with the help of a legislative drafter appointed by the ULCC, in time for the 2026 annual meeting.

### h. DRAFT RESOLUTION

THAT the Report of the Cash Payments Working Group be accepted;

THAT, in accordance with the directions of the ULCC, the Working Group continue its work; and

THAT the working group present a final report and draft legislation to the ULCC at its 2026 annual meeting.

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<sup>2</sup> ULCC, "Progress Report – Cash Payments Project" (August 2024), online: <https://www.ulcc-chlc.ca/ULCC/media/EN-Annual-Meeting-2024/Cash-Payments-Progress-Report-and-Policy-Paper.pdf>

<sup>3</sup> UK, Financial Conduct Authority, "Policy Statement PS24/8, Access to Cash" (July 2024), online: <https://www.fca.org.uk/publications/policy-statements/ps24-8-access-cash>

<sup>4</sup> Bill C-400, *An Act to establish a framework for the continued access to and use of cash in Canada and to make related amendments to other Acts*, 1<sup>st</sup> Sess, 44<sup>th</sup> Parl, 2024, s 2 (first reading 13 June 2024).

<sup>5</sup> *New York City Administrative Code*, § 20-840 "Cashless establishments prohibited" (2020).

<sup>6</sup> *Supra*, note 2.

<sup>7</sup> Bank of Canada, "2022 Methods-of-Payment Survey: Cash Use Over 13 Years" by Chris Henry, Doina Rusu and Matthew Shimoda (Staff Discussion Paper) (Ottawa: Bank of Canada, 30 January 2024). Credit cards are the most popular method of payment by Canadian consumers.

<sup>8</sup> *Ibid*.

<sup>9</sup> See Sophie Smith, "The 10 most cashless countries in the world", *The Telegraph* (10 October 2017). In that assessment, Canada came first amongst the 10 « most cashless countries » followed by Sweden, the UK, France, the US, China, Australia, Germany, Japan and Russia.

<sup>10</sup> Bank of Canada, "Contingency planning for a central bank digital currency" (25 February 2020), online: <https://www.bankofcanada.ca/2020/02/contingency-planning-central-bank-digital-currency/>

<sup>11</sup> *Ibid*.

<sup>12</sup> *Supra*, note 2, "Policy Review" at 10-11.

<sup>13</sup> *Supra*, note 2, "Policy Review" at 11-14.

<sup>14</sup> *Supra*, note 2, "Policy Review" at 14-17.

<sup>15</sup> *Supra*, note 2, "Policy Review" at 17-19.

<sup>16</sup> See Centre Européen des consommateurs France, « Paiement en espèces : les limites dans chaque pays de l'UE » (8 November 2024), online : <https://www.europe-consommateurs.eu/paiements-vie-quotidienne/payer-en-especes-les-limites-dans-chaque-pays.html>

<sup>17</sup> *Code monétaire et financier*, art L 112-6. The following cash payments are not subject to any cap: (i) payments made by persons who do not have a deposit account or lack the legal capacity to use means of payment other than cash; (ii) payments made between natural persons who are not acting for the purposes of a professional activity; and (iii) payments made by the State and other public entities (art L112-6).

<sup>18</sup> EU, *Regulation 2024/1624 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing*, art 80(1): "Persons trading in goods or providing services may accept or make a payment in cash only up to an amount of EUR 10 000 or the equivalent in national or foreign currency, whether the transaction is carried out in a single operation or in several operations which appear to be linked."

<sup>19</sup> See Canada Border Services Agency, "I Declare: A guide for residents returning to Canada", online: <https://www.cbsa-asfc.gc.ca/travel-voyage/declare-eng.html>; Bill C-2, *An Act respecting certain measures relating to the security of the border between Canada and the United States and respecting other related security measures*, 1<sup>st</sup> Sess, 45<sup>th</sup> Parl, 2025, s 136, adding s 77.5 (1) to the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*: "Every person or entity that is engaged in a business, a profession or the solicitation of charitable financial donations from the public commits an offence if the person or entity accepts a cash payment, donation or deposit of \$10,000 or more in a single transaction or in a prescribed series of related transactions that total \$10,000 or more."

<sup>20</sup> Canada Revenue Agency, "Reporting your capital gains as a crypto-asset user" (3 April 2024), online: <https://www.canada.ca/en/revenue-agency/news/newsroom/tax-tips/tax-tips-2024/reporting-your-capital-gains-as-crypto-asset-user.html>. A transaction in which goods or services are purchased with cryptocurrency is considered as a barter by the CRA, see: Canada Revenue Agency, "Information for crypto-asset users and tax professionals" (26 June 2021), online: <https://www.canada.ca/en/revenue-agency/programs/about-canada-revenue-agency-cra/compliance/cryptocurrency-guide.html>. If cryptocurrency were recognized as money and exempted from capital gains tax, its use as a form of payment would likely increase.

<sup>21</sup> For example, companies allowing the use of bitcoin as payment include Twitch, Sacramento Kings, Lush UK, Inifiniti of San Jose, Neweg Computer parts, PayPal, Overstock, AMC Theater, AT&T. Bitpay claims to provide a service that allows user to pay their bills using cryptocurrencies, see BitPay, "The Best Crypto App to Pay with Crypto + Accept Payments", online: <https://www.bitpay.com>.

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<sup>22</sup> Option Consommateurs, “Argent comptant. Vers une mort annoncée?” by Alexandre Plourde (June 20), online : <https://option-consommateurs.org/wp-content/uploads/2020/01/oc-argent-comptant-francais1.pdf>

<sup>23</sup> *Dietrich v Hessischer Rundfunk* (26 January 2021), C-422/19 and C-423/19, ECLI:EU:C:2021:63 at para 46. See also EU, “Proposal for a Regulation of the European Parliament and of the Council on the legal tender of euro banknotes and coins” (28 June 2023), COM(2023) 364, s 4, which reads:

1. The legal tender status of euro banknotes and coins shall entail their mandatory acceptance, at full face value, with the power to discharge from a payment obligation.
2. In accordance with the mandatory acceptance of cash, the payee shall not refuse euro banknotes and/or coins tendered in payment to comply with that obligation.
3. In accordance with the acceptance at full face value of cash, the monetary value of euro banknotes and/or coins tendered in settlement of a debt shall be equal to the amount in euro indicated on the banknotes and/or coins. Surcharges on the settlement of debt with euro banknotes and coins shall be prohibited.
4. In accordance with the power to discharge from a payment obligation, a payer shall be able to discharge from a payment obligation by tendering euro banknotes and coins to the payee.

<sup>24</sup> Bank of Canada, “Past series. Canada’s official notes and coins are called legal tender”, online: <https://www.bankofcanada.ca/banknotes/bank-note-series/past-series/>

<sup>25</sup> See Nicole L’Heureux & Marc Lacoursière, *Droit bancaire*, 5<sup>th</sup> ed (Yvon Blais, 2017) at para 117; Charles Proctor (ed), *Goode on Payment Obligations in Commercial and Financial Transactions*, 2d ed (Sweet & Maxwell, 2009) at para 1-09: “The most common method of satisfying a money obligation – and that on which the creditor is entitled to insist unless otherwise expressly or impliedly agreed – is, of course, by the transfer of coins and notes by way of legal tender. This, however, is highly inconvenient, not to say risky, where substantial sums are involved, and the court will readily infer an agreement to pay by some other method which is equally acceptable commercially.”

<sup>26</sup> In *Phillips v Telus Corp*, 2002 BCPC 499, Phillips sued Telus after the company refused her cash payment for a \$518.50 phone bill. She went to a Telus store in Kelowna with 26 twenty-dollar bills, but the staff declined to accept them. Phillips, who had neither a credit card nor a bank account, argued that Telus had violated the *Currency Act*. The court found that Telus had breached its own service terms by refusing to accept a payment in cash. However, Telus won its counterclaim and was awarded \$518.50 plus interest.

In *Gallant c Telus*, 2013 QCCQ 2404 (CanLII), Gallant sued Telus after the company refused to accept his cash payment of \$133.95 to restore his phone service. When he attempted to pay in cash at a Telus store, the company refused, insisting that he must pay via bank transfer. The court ruled that Telus had no right to refuse a cash payment, citing article 1564 of the *Civil Code of Québec*. Gallant was awarded \$1,000 in damages.

<sup>27</sup> See *eg Zanjanis Group c Waugh*, 2020 QCRDL 5846. A landlord sued its tenant for non-payment of rent and sought lease termination and eviction. The tenant argued that they had attempted to pay their rent in cash, but the landlord had refused and insisted on electronic or bank transfer payments instead. The Tribunal administratif du logement found that cash payments should have been accepted and the case was dismissed.

In *Gestion immobilière LR c Beaudoin*, 2022 QCTAL 4839, the landlord also sought the termination of the lease because of the tenant’s failure to pay their rent. The tenant had attempted to pay her \$595 rent in coins placed in a pillowcase, but the landlord’s representative refused, demanding banknotes instead. The Tribunal administratif du logement ruled that the *Currency Act* does not require a creditor to receive such a large sum to be paid entirely in coins. The Tribunal also found that the tenant had acted in bad faith. The lease was terminated.

<sup>28</sup> See *Francesco c Famous Players Inc*, 2003 CanLII 30680 (QC CQ). Francesco sued Famous Players in damages after the movie theatre refused to accept his \$100 bill as payment. The company policy was to refuse such notes due to fraud concerns. The court noted that the *Currency Act* and article 1564 of the *Civil Code of Québec* grant legal tender status to banknotes but asserted that they do not require businesses to accept them. The case was dismissed.

### Schedule

Local Law No 34 of the City of New York for the Year 2020 prohibiting food stores and retail establishments from refusing to accept payment in cash

**LOCAL LAWS  
OF  
THE CITY OF NEW YORK  
FOR THE YEAR 2020**

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**No. 34**

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Introduced by Council Members Torres, Espinal, Powers, Deutsch, Cumbo, Lander, Brannan, Dromm, Reynoso, Rivera, Constantinides, Kallos, Levine, Ayala, Rosenthal, Moya, Rose, Cornegy, Koslowitz, Lancman, Levin, Cohen, Chin, Vallone, Barron, Maisel and The Public Advocate (Mr. Williams).

**A LOCAL LAW**

**To amend the administrative code of the city of New York, in relation to prohibiting food stores and retail establishments from refusing to accept payment in cash**

*Be it enacted by the Council as follows:*

Section 1. Chapter 5 of title 20 of the administrative code of the city of New York is amended by adding a new subchapter 21 to read as follows:

*SUBCHAPTER 21*

*CASHLESS ESTABLISHMENTS PROHIBITED*

*§ 20-840 Cashless establishments prohibited. a. Definitions. For purposes of this subchapter, the following terms have the following meanings:*

*Cash. The term “cash” means United States coins and currency, including federal reserve notes. Cash does not include foreign currency; any paper instrument other than a federal reserve note, including, but not limited to, any check, bond, or promissory note; or any foreign metal coin.*

*Consumer commodity. The term “consumer commodity” means any article, good, merchandise, product or commodity of any kind or class produced, distributed or offered for retail sale for consumption by individuals, or for personal, household or family purposes.*

*Food store. The term “food store” means an establishment which gives or offers for sale food or beverages to the public for consumption or use on or off the premises, or on or off a pushcart, stand or vehicle.*

*Retail establishment. The term “retail establishment” means an establishment wherein consumer commodities are sold, displayed or offered for sale, or where services are provided to consumers at retail. This definition does not include banks or trust companies as those terms are defined in section 2 of article 1 of the banking law.*

*b. It shall be unlawful for a food store or a retail establishment to refuse to accept payment in cash from consumers, provided that such food store or retail establishment may refuse to accept payment:*

*1. In cash bills denominated above \$20; or*

*2. In cash for any telephone, mail, or internet-based transaction, unless the payment for such transaction takes place on the premises of such food store or retail establishment.*

*c. No food store or retail establishment shall charge a higher price for the same consumer commodity to a consumer who pays in cash than to a consumer who pays for such commodity through a cash-less transaction.*

*d. A food store or retail establishment that violates this section is liable for a civil penalty of not more than \$1000 for the first violation and a civil penalty of not more than \$1500 for each subsequent violation.*

*e. 1. This subchapter shall not apply to a food store or retail establishment that provides a device on premises that converts cash, without charging a fee or requiring a minimum deposit amount greater than one dollar, into a prepaid card that allows a consumer to complete a transaction at such food store or retail establishment.*

*2. Upon request, such device shall provide each consumer with a receipt indicating the amount of cash such consumer deposited onto the prepaid card.*

*3. Cash deposits onto such a prepaid card shall not be subject to an expiration date and there shall be no limit on the number of transactions that may be completed on such prepaid card.*

*4. In the event that such device malfunctions, the food store or retail establishment where such device is located shall accept payment in cash from consumers throughout the time period in which such device does not function in accordance with the standards set forth in this subchapter. Such food store or retail establishment shall place a conspicuous sign on or immediately adjacent to such device indicating that such food store or retail establishment is required by law to accept cash if such device malfunctions, and that consumers may report any violation to 311. The department may establish by rule additional requirements relating to such signs and the display of such signs.*

§ 2. This local law takes effect 270 days after it becomes law, except that the department of consumer affairs may take such measures as are necessary for the implementation of this local law, including the promulgation of rules, before such date.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on January 23, 2020 and returned unsigned by the Mayor on February 24, 2020.

MICHAEL M. McSWEENEY, City Clerk, Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL

I hereby certify that the form of the enclosed local law (Local Law No. 34 of 2020, Council Int. No. 1281-A of 2018 to be filed with the Secretary of State contains the correct text of the local law passed by the New York City Council, presented to the Mayor and neither approved nor disapproved within thirty days thereafter.

STEPHEN LOUIS, Acting Corporation Counsel.