

Section 77 → Liability of banker for
negligently dealing with
Bank Payment

Banker must compensate the loss

Liability of no 'good banking' → 2F (Art 20K)
compensate

Liability of no 'good banking' → 2F (Art 20K)
compensate

Section 69 → Instrument Payable at Specified Place

Presentment must be done at that specified place only

Section 70 → Presentment where no exclusive place is specified

Presentment must be done at the business place (if any) or at usual residence

Section 71 → Presentment where maker etc has to no known place of business or residence

It must be presented wherever he is found

Section 72 → Presentment of cheque etc Change the drawer

Payee must present it to the bank to receive money from drawer

Section 73 → Presentment of cheque to change any other person (Indorsee)

Any other person (Indorsee) must present it to bank within reasonable time

Section 74 → Presentment of Instrument payable on demand

Presentment must be within reasonable time since it is payable on demand no due date is mentioned

Section 75 → Presentment by or to agent (or assignee)

This section allows agent (or assignee) to receive or compare or to pay

Section 75(A) → Excuse for delay in presentment for acceptance or payment

If delay is beyond control of holder, it is excused, when situation comes to normal performance must be within reasonable time

Section 76 → Presentment is unnecessary

- If there is a sudden/public holiday
- If it is mentioned in agreement presentment is not necessary
- If drawer is OK with non presentment of instrument physically.
- If amount is paid before maturity

Rules Regarding Presentment

Section 61-77

Section 61 → Presentment for acceptance of BOE

↓ Time & Place not mentioned

→ must be accepted within reasonable time at business place within business hours

→ Drawer not available at that place, bill will dishonour due to non acceptance

Place is mentioned

→ must be accepted at that place within business hours

→ drawer not available at that place, bill will dishonour due to non acceptance

Section 62 → Presentment of Promissory Note after sight

must be presented within reasonable time at business place within business hours

Section 63 → Drawer's time for celebration

"Drawer" can decide to accept BOE within 48 hours

Section 64 → Presentment for Payment
Holder must present it to — from Recovery
BOE - acceptor

PN - maker

Cheque - drawee - Bank

Section 65 → Hours for presentment

Instrument should be presented within business hours / Banking hours

Section 66 → Presentment for Payment of Instrument Payable after date on sight

Instrument must be presented for recovery on maturity

Section 67 → Presentment for payment of Promissory Note Payable by Installments

Every Promissory Note must be presented on the 3rd day after fixed date (since 3 grace days are allowed).

Section 68 → Presentment for Payment of Instrument payable at a specified place and no where else

It must be presented only at that specified place for recovery.

→ If the endorser endorses the instrument but it is not delivered to the endorsee and the endorser dies before delivery, right to receive with not transfer even if the endorser now has the instrument, since negotiated is not complete without delivery

* DISHONOUR OF CHEQUE

→ Dishonour of cheque due to insufficient funds is a punishable offence

Punishment → Imprisonment upto ~~2~~ 2 years
OR
Penalty of twice the amount of
Cheque or
BOTH

* Following conditions must be satisfied-

☐ Cheque must be presented within 3 months from date of issue

☐ Insufficient fund also includes:-

→ Stop Payment of cheques unless it can be justified

→ Dishonour due to account closure

→ Preventing payee from presenting the cheque

☐ Cheque must be issued to discharge of legal liability

* Procedure for Dishonour

→ Cheque is issued

→ Payee/holder presents it to bank

→ Collecting bank informs payee regarding dishonour

→ Payee must give notice to drawer for payment

→ Drawer must pay within 15 days

→ Payee must file a suit for non payment

Rules for Compensation (Section 117)

In case PN/BoE/Cheque is Dishonoured

Holder can: Recover the amount of expenses of Noting & Protesting

If parties are in 2 different countries current exchange rate is applicable

If Endorsee has to: He can recover the amount Pay

BoE
Pay to Raju a sum of ₹
Madan ~~Accept~~ Anbu

→ Raju endorses to Lucky on due date Madan fails to pay. So Lucky recovers from Raju → endorser Recovers from Madan

* Types of Instruments

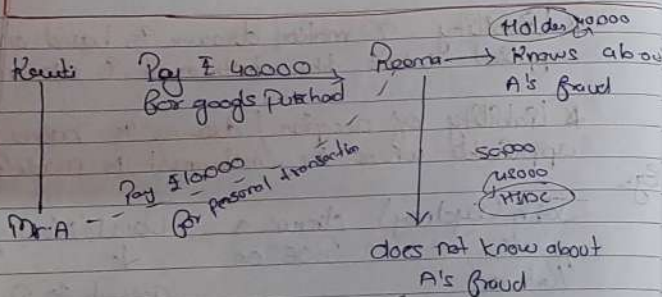
1) Inchoate Instrument
↓
Incomplete Instrument

* Drawer will only put a stamp and sign

* maker is liable to Holder as well as HINC upto stamp value

Promissory Note

I promise to pay to Ram of Rs fifty thousand for the value received three months after day



2) Ambiguous Instruments

Unclear whether it is BoE/PN

* Holder has to decide whether it is BoE/PN later the/she cannot change decision

₹ 50000 Bill of Exchange [E]
Pay to Mr. Reema a sum of fifty thousand.
Reema
Reema

Notes- It looks like a BoE but has characteristics of PN. Instead of writing I promise to pay the drawer is giving to himself to pay

* DELIVERY *

- It is essential
- It can be actual / constructive
- It must be voluntary + intention to transfer the right to receive money
- It is necessary not only at the time of negotiation but also at the time of Drawing
- Right is transferred to indorsee only after delivery

Types of Instruments

• Bearer Instrument and Order Instrument

1) Bearer Instrument

Payable to → Name of the person → Blank
 or
 Specified "bearer"
 or
 last endorsement is
 Blank

★ Negotiated by delivery

2) Order Instrument

Payable to → Certain Person
 or
 order of a certain person
 or
 last endorsement is full

★ Inland and foreign Instrument

1) Inland Instrument

★ Drawn in India
 And

(a) Payable in India

(b) Drawn upon a resident in India

2) Foreign Instrument

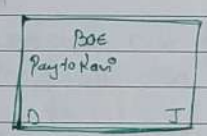
→ Not in India

★ Liability of maker/drawer is based on law applied where the instrument is drawn

★ Liability of acceptor/drawee is based on law applicable where the instrument is made payable

Eg:-

John (Sydney) draws a BOE on David (New York) ^{Rate of Interest}
 ↓ ↓
 Rate of Interest @ 13% BOE on David (New York) ^{Rate of Interest}
 ↓ ↓
 accepts to pay to Paul → endorses in India and BOE is dishonored



Section 5: Bills of Exchange

- 1) An instrument in writing
- 2) Containing an unconditional order
- 3) Signed by the maker
- 4) Directing a certain person
- 5) to pay a certain sum of money
- 6) to a certain person or order of the certain person or bearer of instrument

Section 6: Cheque

1. Same as Bills of Exchange
2. Drawn on a specific bank
3. Payable only when holder presents to bank
4. Includes electronic cheque as well as truncated cheque & Physical cheque
5. Three Parties Included

Drawer makes the cheque
Drawee Bank
Payee receive money.

* Holder in Due Course (HDC)

A Person who receives Negotiable Instruments

(a) for some consideration

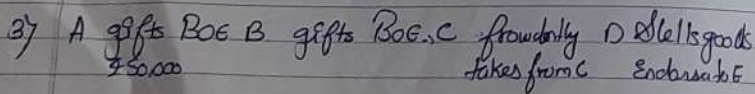
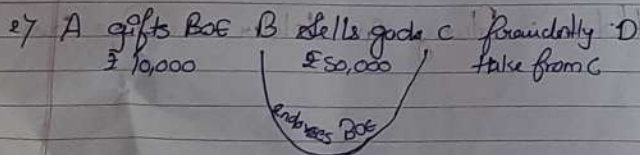
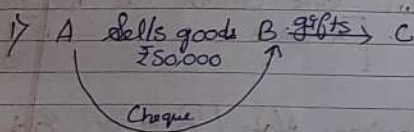
(b) in good faith

(c) before maturity of due date

Notes: If HDC will be considered "only" when all these above mentioned satisfy

- If any of them one lacks to satisfy then it will be considered as "Holder only" not "HDC".

Eg:



Section 4 - Promissory Note

Promissory Note

- 1) Instrument in writing
- 2) Containing an unconditional undertaking promise
- 3) Signed by the maker
- 4) to pay a certain sum of money
- 5) to a certain person or order of certain person or bearer of the instrument

* Interpretation

Negotiable - Transferable

Instrument - Written piece of paper creating right of a person to receive money and corresponding liability of a person to pay

* Characteristics

- 1) It must be in writing
- 2) It must be signed
- 3) Holder's title must be free from defects
Holder is always HODC [Holder in Due Course]
- 4) It is freely transferable from one person to another person
- 5) It can be transferred any number of times till its satisfaction
- 6) It must be a promise to pay / order to pay
- 7) It must be unconditional
- 8) Payment must be money only

Presumptions

- 1) Consideration:- Negotiable Instrument is issued for some consideration
- 2) Date:- It would be issued on date mentioned on instrument of BOE
- 3) Time of acceptance:- It must be accepted within reasonable acceptance time before maturity
- 4) Time of transfer:- It must be transferred before maturity
- 5) Order of Endorsement:- Negotiable Instrument is endorsed in same order as mentioned on instrument [A → B → C → D]
- 6) Stamping:- Promissory Note / Bills of Exchange must be stamped
- 7) Holder:- Always in Holder in Due Course

The Negotiable Instruments Act 1881

Negotiable Instruments Act 1882

• 1st March 1882

India + Jammu & Kashmir

★ To legalise the Payment system in India

Acts deals with:

- Promissory Note
- Bills of Exchange
- Cheque
- Mundis

Notes: Mundis nowadays are not considered.
It was in old days.

The Negotiable Act is amended thrice.

The negotiable Instrument - (Amendment and miscellaneous Provision) Act 2002

The negotiable Instruments (Amendment) Act 2015

The negotiable Instruments (Amendment) Act 2018

What is a Negotiable Instrument?

• Not Defined in the Act

Section 13 → Includes Promissory Note, Bills of Exchange, Cheque as negotiable Instrument.