

Negotiable Instrument Act – Summary

<p>Section 13 – NI – Bills of exchange, promissory notes and cheques</p>	<p style="text-align: center;">Promissory Note – Sec. 4</p> <p>an instrument in writing containing an unconditional undertaking signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument</p>
<p style="text-align: center;">Essential Characteristics of NI</p> <ul style="list-style-type: none"> ➤ <u>writing</u> ➤ <u>signed</u> ➤ <u>freely transferable</u> from one person to another. ➤ Holder's <u>title is free from defects.</u> ➤ <u>transferred any number of times</u> ➤ Every NI must contain an <u>unconditional promise or order to pay money.</u> ➤ The promise or order to <u>pay must consist of money only.</u> ➤ The <u>sum payable, the time of payment, the payee, must be certain.</u> ➤ The instrument should be <u>delivered.</u> 	<p style="text-align: center;">Essentials Characteristics of Promissory Note</p> <ul style="list-style-type: none"> ➤ <u>In writing</u>- An oral promise to pay is not sufficient. ➤ There must <u>be an express promise to pay.</u> ➤ The <u>promise to pay should be definite and unconditional.</u> ➤ must be <u>signed by the maker</u> otherwise it is incomplete and ineffective. ➤ Promise to <u>pay money only.</u> ➤ Promise to <u>pay a certain sum.</u> ➤ The <u>maker and payee must be certain, definite and different persons.</u> A promissory note cannot be made payable to the bearer [Section 31 of the Bank of India Act, 1934 (RBI Act)]. Only the Reserve Bank or the Central Government can make or issue a promissory note 'payable to bearer'. ➤ A promissory note must be <u>properly stamped</u> in accordance with the provisions of the Indian Stamp Act and such stamp must be duly cancelled by maker's signatures or initials on such stamp or otherwise. <p style="text-align: center;">Parties of Promissory Note</p> <p>The person who makes the promise - <u>Maker</u> He is the debtor. <u>Payee</u> is the person to whom the amount on the note is payable</p>
<p>Bearer Instrument: where the <u>name of the payee is blank</u> or where the name of payee is specified with the words "or bearer" or <u>where the last indorsement is blank.</u> Such instrument can be <u>negotiated by mere delivery.</u></p> <p>Order Instrument: which is <u>payable to a person</u> or Payable to a person or his order or <u>Payable to order of a person</u> or where the <u>last indorsement is in full,</u> such instrument can be <u>negotiated by indorsement and delivery.</u></p>	<p style="text-align: center;">Bills of Exchange – Sec. 5</p> <p>an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument</p> <p style="text-align: center;">Essentials characteristics of Bills of Exchange</p> <ul style="list-style-type: none"> ➤ It must be in <u>writing.</u> ➤ Must contain an <u>express order to pay.</u>

	<ul style="list-style-type: none"> ➤ The order to pay must be <u>definite and unconditional</u>. ➤ The <u>drawer must sign the instrument</u>. ➤ <u>Drawer, drawee, and payee must be certain</u>. ➤ The <u>sum must be certain</u>. ➤ The <u>order must be to pay money only</u>. ➤ It must be <u>stamped</u>.
<p>Inland instrument:</p> <ol style="list-style-type: none"> 1) P/N <u>made in India</u> + <u>payable in India</u> + <u>drawn upon person resident in India</u> 2) P/N <u>made in India</u> + <u>payable in India</u> + drawn upon person resident outside India 3) P/N <u>made in India</u> + payable outside India + <u>drawn upon person resident in India</u> <p>Foreign instrument: A foreign instrument is one which is <u>not an inland instrument</u>.</p>	<p style="text-align: center;"><u>Parties of Bills of Exchange</u></p> <ul style="list-style-type: none"> ➤ Drawer: The maker of a bill of exchange. ➤ Drawee: The person directed by the drawer to pay. He is the person on whom the bill is drawn. On acceptance of the bill, His liability is primary and unconditional. ➤ Payee: The person named in the instrument, to whom or to whose order the money is, by the instrument, directed to be paid.
<p>Inchoate Instrument: an instrument that is <u>incomplete in certain respects</u> - this gives a power to its holder to <u>make it complete by writing any amount either within limits specified therein or within the limits specified by the stamp's affixed</u> on it.</p> <p>Ambiguous Instrument: <u>Section 17</u> "Where an instrument may be construed either as a promissory note or bill of exchange, <u>Once holder exercises his option, he is bound by it</u></p>	<p style="text-align: center;"><u>Cheque – Sec. 6</u></p> <p>a <u>bill of exchange drawn on a specified banker</u> and not expressed to be <u>payable</u> otherwise than <u>on demand</u> and it includes the electronic image of a truncated cheque and a cheque in the electronic form</p> <p style="text-align: center;"><u>Parties to Cheque</u></p> <ul style="list-style-type: none"> ➤ Drawer: The person who <u>makes the cheque</u> (Debtor). His liability is primary and conditional. ➤ Drawee: The specific bank <u>on whom cheque is drawn</u>. " ➤ Payee: The person named in the instrument (i.e., the <u>person in whose favour cheque is issued</u>), to whom or to whose order the money is, by the instrument, directed to be paid
<p style="text-align: center;"><u>Rules of Compensation – Sec. 117</u></p> <p>In case of dishonour of NI, holder can claim:</p> <ol style="list-style-type: none"> 1) <u>Amount - due</u> on NI 2) <u>Expenses incurred in presenting, noting & protesting</u>. 3) <u>Interest 18% p.a.</u> from due date of payment to date of realisation. <p>Note: In case of foreign currency, current rate of exchange.</p>	<p style="text-align: center;"><u>Dishonour of Cheques for insufficiency of funds in the Account</u></p> <p><u>Sec. 138</u> –</p> <p>Debt – Cheque drawn by a person on account maintained by him with banker was <u>issued to discharge</u> a <u>legally enforceable debt</u></p> <p>Reason for dishonour - <u>insufficiency of funds</u></p> <p>Presentment of cheque - <u>Within 3 months</u></p> <p>Demand made from drawer - <u>Within 30 days of dishonour</u></p>

	<p>Default by drawer to pay - <u>within 15 days of demand</u> made such person shall be deemed to have committed an offence and shall, be <u>punished with imprisonment for a term which may extend to two years, or with fine which may extend to twice the amount of the cheque, or with both.</u> Sec. 140 – Defence not Allowed - <u>no reason to believe</u> when he issued the cheque that the cheque may be dishonoured on presentment</p>	
<p>Presentment for Acceptance – Sec. 61 (only for BoE) BOE payable after sight must - Must be presented within a reasonable time & in business hours on a business day. (Note: Sec. 63 - 48 hours, excluding public holidays, are given to drawee for acceptance)</p>		<p>Presentment of Promissory note for sight – Sec. 62 P/N payable at a certain period after sight - Must be presented within a reasonable time & in business hours on a business day. In default of such presentment - no party liable thereto</p>
In Default of Such Presentment	no party liable thereto	If drawee not found after a reasonable search, BoE is dishonored
If BoE is directed to Drawee at a particular place	Must be presented at that place	
<p>Rules Regarding Presentment for Payment (BoE, P/N Ch)</p> <p>To whom Maker (P/N), Acceptor (BOE), Drawee (CH) – Sec. 64</p> <p>If default in Presentment Exception no party liable thereto – Sec. 64</p> <p>Time If P/N is payable on demand and is not payable at a specified place, no presentment is necessary. – Sec. 64 During usual business hours and if at Banker’s within Banking Hours – Sec. 65</p> <p>If instrument payable after date or sight must be presented for payment at maturity – Sec. 66</p> <p>P/N payable by instalments must be presented for payment on 3rd day after date fixed for payment of each instalment – Sec. 67</p> <p>instrument payable at specified place where no exclusive place specified Must be presented for payment at that place – Sec. 69 must be presented for payment at the place of business (if any) or at the usual residence – Sec. 70</p> <p>no known place of business or presentment may be made to him in person wherever he can be found</p>		<p>When Presentment Unnecessary – Sec.76 And instrument dishonoured on due date of presentment</p> <ol style="list-style-type: none"> 1) Maker, drawee or acceptor prevents the presentment, 2) Payable at business place & that’s closed on business day during usual business hours, 3) Payable at specified place & liable party doesn’t attend place, 4) Not payable at specified place & liable party not found after due search, 5) Liable party engaged to pay notwithstanding non-presentment, 6) Liable party makes part payment, 7) Liable party waives off his right to take advantage.

residence Instrument payable on demand	- Sec. 71 Must be presented for payment within a reasonable time after it is received by the holder – Sec. 74	8) If drawer could not suffer damage from want of such presentment.
Sec. 75A : Delay in presentment for acceptance or payment is excused if the delay is caused by circumstances beyond the control of the holder		

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Wish you all the best in your study endeavors. Happy Learning!

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