

## PAPER-3

# NEGOTIABLE INSTRUMENTS ACT 1881

## BANK PROMOTIONAL EXAM

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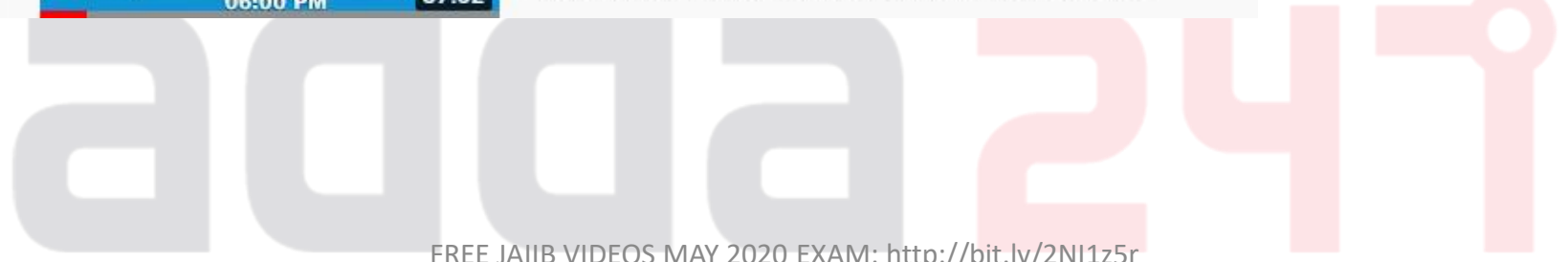
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# Sec. 138-142: Bouncing of Cheque

## ➤ **Liable to be prosecuted:**

- ✓ Drawer of cheque
- ✓ Return unpaid
- ✓ Insufficiency of funds
- ✓ Stop payment
- ✓ Closure account
- ✓ Different signature

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# Sec. 138- Dishonor of cheque

- Where any cheque drawn by a person maintaining a/c in bank, for payment to another person out of that a/c, returns unpaid for want of sufficient balance in a/c, such person shall be presumed to have committed offence & shall be **punishable with imprisonment upto max 2 year or twice the amount of cheque or both.**

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# Legal action in sec 138

- The payee has to sent the notice to the drawer with **30 days from the date of receiving “Cheque Return Memo”** from the bank.
- The notice should mention that the cheque amount has to be **paid to the payee within 15 days from the date of receipt** of the notice by the drawer.
- If the **cheque issuer fails to make a fresh payment within 30 days of receiving the notice**, the payee has the right to file a criminal complaint under Section 138 of the Negotiable Instruments Act.

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# Sec. 143A- Interim Compensation

- i. Court trying an offence u/s 138 may order the drawer to pay interim compensation (**max 20% of amount of cheque**) to the complainant upon framing of charge.
- ii. It shall be paid **within 60 days from date of order** or court extended period of **30 days**.
- iii. If drawer is acquitted, complainant to repay back amount of such compensation, with interest at RBI published **bank rate**, at beginning of FY, **within 60 days** from date of order, or court extended period of 30 days. Appeal

# Norms for return of Dishonoured Cheques

- As per Goiporia Committee, such cheques to be returned to the customers within 24 hours.
- Cheque dishonoured for want of funds should be attached memo reading as 'insufficient funds'.
- Report of dishonour of cheques of Rs.1 cr and above should be made part of MIS.

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# Norms for return of Dishonoured Cheques

- Previously, if from an account, 4 or more cheques of Rs.1 cr and above were returned for insufficiency of funds during a financial year, cheque book facility was to be withdrawn.
- Cheque returning memo should be signed even if it is a computer generated

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**Q.** In case of return of cheque, As per Goiporia Committee, Such cheques to be retruned to the customers within:

- a) 12 hours
- b) 24 hours
- c) 48 hours
- d) 36 hours



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**Q.** Cheque dishonoured for want of funds should be attached memo reading as:

- a) Refer to drawer
- b) Insufficient funds
- c) Exceeds arrangement
- d) Effects not cleared, present again



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Q. A banker is expected to honour the cheques within the specified banking hours as per Section \_\_\_\_\_ of NI Act, 1881

- a) 22
- b) 25
- c) 31
- d) 65



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**Q.** A cheque become is stale it can be revalidated:

- a) Only ones within one year of date of issue
- b) Any number of times
- c) Only twice within one year date of issue
- d) None of the above



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**Q.** On a cheque issued by a customer the word bearer or order written this cheque will be treated as


- a) Bearer cheque
- b) Order cheque
- c) This is not a negotiable instrument now
- d) None of the above



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**Q.** ABC Enterprises has a current account in bank. The proprietor Mr. A has given a mandate in the name of Mr. B to operate the current account. A cheque dated 12<sup>th</sup> July 2018 signed by Mr. B is presented through clearing for payment on 31<sup>st</sup> July 2018, However, the bank has received intimation from Mr. A regarding of Mr. B death on 22<sup>nd</sup> July 2018. What should do?

- a) The cheque shall be returned as, on date of presentation, the signatory of the cheque had died
- b) The cheque shall be returned as, with death of the agent, his authority is terminated
- c) The cheque shall be paid, as with death of agent, the authority of principal continues to be in operation 
- d) The cheque shall be paid after getting consent of the principal, who is still alive

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