

Quadrant II - Transcript and Related Materials

**Programme: Bachelor of Commerce (Third Year) Subject: Commerce
Paper Code: COD 124**

Paper Title: Law and Practice of Banking II

Unit: II- Negotiable Instrument

Module Name: *Payment of Cheques & Dishonour, Discharge and Bouncing of Cheques & its implications*

Module No: 07

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Payment of Cheque

A cheque, is a document that orders a bank to pay a specific amount of money from a person's account to the person in whose name the cheque has been issued. Since then cheque usage has fallen, being partly replaced by electronic payment systems.

Discharge and dishonor of Cheque

(I) NON-ACCEPTANCE

(II) NON-PAYMENT

Dishonor by non-acceptance

- When the drawee or one of the several drawees (not being partners) makes default in acceptance upon being required to accept the bill (48 hours required).***
- Where the presentment for acceptance is excused and the bill is not accepted.***
- Where the drawee is incompetent to contract.***
- Where the drawee makes the acceptance qualified***



If the drawee is fictitious person or after reasonable search cannot be found.

Dishonor by Non-payment

- ***A cheque is said to be dishonored by non-payment when the maker, acceptor or drawee of the cheque makes default in payment upon being duly required to pay the same .***

(Sec 92)

REASONS FOR DISHONOUR OF CHEQUE

1. INSUFFICIENT FUND

When the amount of money written on the cheque for withdrawal is more than the account balance of the drawer, then the cheque will be dishonored unless the customer has access to overdraft.

2. THE DEATH OF THE OWNER

A cheque will be dishonored if the bank receives information about the death of its customer. The bank will not accept the cheque from the account until every issues has been cleared.

3. IRREGULAR SIGNATURE

If the signature which the drawer signs on the cheque which will be presented to the bank is different from the original specimen signature in the bank, the cheque will be dishonored.

4. NON-EXISTING ACCOUNT

Sometimes, fraudsters who do not have any account with the bank but possess false false cheque books may give cheque to the people that defrauded.

5. BANKRUPT

If someone is judged by a law court to be unable to pay the debts he owe, the bank will not accept any cheque which is presented on behalf of it's Customer.

6. FROZEN ACCOUNT

If a court orders or a military government of a country makes a decree that some people's account should be



frozen, the bank must dishonor all the cheques with the accounts' numbers involved.

7. WHEN THERE IS ALTERATION

If there is any cancellation on a cheque, the bank will have to dishonor such cheque, the bank can only accept the cheque if the drawer signs his signature above or under the altered words.

8. A POST-DATED CHEQUE

If a post-dated cheque is been presented for payment, the bank is going to dishonour such a cheque.

9. A STALE CHEQUE

A stale check is a cheque that has been delayed for more than six months of the date which was written on it. This type of cheque will be rejected on presentation.

10. IF THE AMOUNT WRITTEN IN WORDS IS DIFFERENT FROM THE AMOUNT WRITTEN IN FIGURES

The bank must definitely dishonor a cheque if the amount written in words is different from the amount written in figures.

11. WHEN PAYMENT IS STOPPED

This occurs if the owner of the account asks a bank not to pay a cheque which has been issued already.

12. A CLOSED ACCOUNT

If the drawer issues post dated Cheque and closes his or her account before the date the cheque was issued, when the cheque is presented for payment, it will be dishonored by the bank.

BOUNCING OF CHEQUE

A bounced cheque is slang for a cheque that cannot be processed because the account holder has Non-sufficient Fund(NSF) available for use.

Banks return, or "bounce", these checks, also known as Rubber Checks, rather than honoring them, and banks charge the cheque writers NSF fees.



IMPLICATIONS OF BOUNCED CHEQUES

- **Bank Penalty:**

The bank imposes a penalty in the form of NSF (non-sufficient fee) in case of a cheque bounces due to insufficient funds in the account, mismatch of signatures or any other technical issue. The penalty imposed varies depending upon the type of bank account.

- **Impact on the CIBIL Score:**

A CIBIL score carries a three-digit number ranging from 300 to 900 used by the banks and other non-banking financial companies to determine a person's financial credibility to repay the loan on time. The cheque bounce can cause a negative impact on the CIBIL score of the accused and might create issues while obtaining a loan from the bank in the future.

- **Defaulter by RBI:**

The RBI (Reserve Bank of India) has issued guidelines to authorize the banks to stop issuing cheque books to defaulters who have been accused of dishonor of cheques for a minimum four number of times for an amount exceeding Rs. 1 crore.

- **Civil and Criminal Charges:**

A cheque bounce will lead to a civil suit or a criminal complaint against you by the aggrieved payee. A lawsuit for cheating and dishonesty under Section 420 of the Indian Penal Code, 1860 can also be filed, provided the charge of cheating and dishonesty needs to be proved against the drawer.

RETURN OF CHEQUES

A returned cheque is a cheque that the receiving bank does not honor.

These are cheques that the cheque writer's bank cannot process and that it therefore denies and returns to the bank that submitted the cheque for payment.

REASONS FOR RETURN OF CHEQUES

- **Insufficient funds: A check can bounce when the sender issues what is known as a non sufficient**



fund (NSF) cheque, which is one that an individual doesn't have enough money in their account to cover.

- ***Stop payments: A request not to pay a cheque that has been issued can also result in a returned cheque.***
- ***Cheque too old to honor: A bank may treat a check as uncollectible if it was cashed more than six months after the date of the check.***
- ***Improperly written: A check can be returned if the sender fails to sign it.***



Possible misconceptions/clarification: Nil

