**BANKING THEORY LAW AND PRACTICE**

**UNIT-IV**

 **PAYING AND COLLECTING BANKERS:**

 Collecting and paying banker. ... If the collecting banker pays to the customer the amount of the cheque or credits such amount to his account and allows him to draw it, before the amount of the cheque is actually realized from the drawee banker (paying banker), the collecting banker is deemed to be its 'holder for value'.

**RIGHTS AND DUTIES OF A COLLECTING BANKER:**

* Cheque crossed generally be paid only to banker
* A cheque crossed specially should be paid only to through banker
* Second special crossing in favour of the banker
* A banker cannot ignore the crossing

**RIGHTS AND DUTIES OF A PAYING BANKER:**

 It is also the duty of the paying banker to examine the cheque and ensure that it has been properly signed, the endorsements are correct and that the cheque is generally in order. In the case of bills, it is part of the paying banker's duty from instruction by the customer to pay them.

**PRECAUTIONS TO BE TAKEN BY PAYING BANKER WHILE MAKING PAYMENT OF CHEQUES :**

**1. Crossed Cheque:** The most important precaution that a banker should take is about crossed cheques. A banker has to verify whether the cheque is open or crossed. He should not pay cash across the counter in respect of crossed cheques. If the cheque is a crossed one, he should see whether it is general crossed or special crossed. If it is general crossing, the holder must be asked to present the cheque through some banker and should be paid to a banker. If the cheque bears a special crossing, the banker should pay only the bank whose name is mentioned in the crossing.

 **2. Open Cheque:** If it is an open cheque, a banker can pay cash to the payee or the holder across the counter. If the banker pays against the instructions as indicated above, he is liable to pay the amount to the true owner for any loss sustained. Further, a banker loses statutory protection in case of forged endorsement.

**3. Proper Form:** A banker should see whether the cheque is in the proper form. That means the cheque should be in the manner prescribed under the provisions of the Negotiable Instruments Act. It should not contain any condition.

**4. Presentment of Cheque:** Presentation of the cheque should be in right format and right place. A banker can honour the cheques provided it is presented with that branch of the bank where the drawer has an account or another branch if it is multi-city cheque.

**5. Date of the Cheque:** The paying banker has to see the date of the cheque. It must be properly dated. It should not be either a post-dated cheque or a stale-cheque. If a cheque carries a future date, it becomes a post-dated cheque. If the cheque is presented on the date mentioned in the cheque, the banker need not have any objection to honour it. If the banker honours a cheque before the date mentioned in the cheque, he loses statutory protection. If the drawer dies or becomes insolvent or countermands payment before the date of the cheque, he will lose the amount. The undated cheques are usually not honoured.

**6. Words and Figures:** The amount of the cheque should be expressed in words, or in words and figures, which should agree with each other. When the amount in words and figures differ, the banker should refuse payment. However, Section 18 of the Negotiable Instruments Act provides that, where there is difference between the amount in words and figures, the amount in Prof. Suplab Podder E-Mail ID: skpnext@gmail.com Page | 46 words is the amount payable. If the banker returns the cheque, he should make a remark ‘amount in words and figures differ’.

 **7. Alterations and Overwriting:** The banker should see whether there is any alteration or overwriting on the cheque. If there is any alteration, it should be confirmed by the drawer by putting his full signature. The banker should not pay a cheque containing material alteration without confirmation by the drawer. The banker is expected to exercise reasonable care for the detection of such alterations. Otherwise, he has to take risk. Material alterations make a cheque void.

**8. Proper Endorsements:** Cheques must be properly endorsed. In the case of bearer cheque, endorsement is not necessary legally. In the case of an order cheque, endorsement is necessary. A bearer cheque always remains a bearer cheque. The paying banker should examine all the endorsements on the cheque before making payment.

**PAYMENT IN DUE COURSE:**

"Payment in due course" means payment in accordance with the apparent tenor of the instrument in good faith and without negligence to any person in possession thereof under circumstances which do not afford a reasonable ground for believing that he is not entitled to receive payment of the amount therein mentioned.

**RECOVERY OF MONEY PAID AT MISTAKE:**

Usually, a party who mistakenly pays money to another is entitled to recover it. ... However, a valid defence may instead arise if, as a result of the payment made, the defendant has changed their position in good faith and to such an extent that it would be unjust to require them to repay the money.

**UNIT-V**

s**SBI PASSBOOK:**

SBI. Country's top lender, State Bank of India (SBI), enables hassle-free updating of your passbook with Swayam (passbook printing kiosk). Bank passbooks are in integral records of the financial health of the respective bank account. The passbook has the advantage of viewing transactions from the account opening date.

**ISSUES DUPLICATE PASSBOOK.**

And ask him to issues duplicate passbook. he can issue the same instantly. you have to visit the bank and fill the customer request form. in that you need to fill your account details and your name as per bank records and select duplicate passbook option and give to the bank officials.

**WHAT DO YOU MEAN BY CHEQUE?**

A cheque, or check (American English; see spelling differences), 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.

**DEFINITION OF CHEQUE**

Cheque refers to a negotiable instrument that contains an unconditional order to the bank to pay a certain sum mentioned in the instrument, from the drawer's account, to the person to whom it is issued, or to the order of the specified person or the bearer.

**REQUISITES OF CHEQUE**

A cheque must be drawn on a specified banker. It must be drawn by the drawer of the cheque. The cheque should be signed by the drawer. The order to pay must be for payment of money only.

# What are the essential requirements of a cheque?

The following are the essential features of a cheque:

1. A cheque must be in **writing.**
2. It must contain an order to pay. Not a request to pay.
3. The order to pay must be unconditional.
4. A cheque must be drawn on a specified banker.
5. It must be drawn by the drawer of the cheque.
6. The cheque should be signed by the drawer.
7. The order to pay must be for payment of money only.
8. The order must be for the payment of certain sum of money.
9. The order must be expressed to be payable on demand.
10. The amount of the cheque must be made payable to certain person or to his order or the bearer of the cheque.

**CHEQUE DRAWING**

Rules For Drawing A Cheque. If the drawer makes the cheque properly and if the balance of the drawer at the bank permits, the bank must pay the amount of cheque as soon as it is presented. If the drawer does not make the cheque properly, the bank rejects payment. ... The name of the payee should be mentioned on the cheque.

**TYPES OF CHEQUES:**

**Cheque:**A Cheque is a negotiable instrument which contains an order to the bank, signed by the drawer, to pay a certain sum of money to a specified person. It is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand.It is defined under **section 6** of the **Negotiable Instruments Act 1881**.

**Important details to be present in a cheque:**

1. A cheque should be dated.
2. Should mention the amount of money in figures and words.
3. A cheque must be signed by the person issuing the cheque. The person issuing the cheque is known as Drawer (*Frequently Asked in Exam*)
4. A cheque must be drawn upon a specified bank (Drawee)*(Frequently Asked in Exam)*
5. A cheque must have the name of the recipient of the cheque. The recipient of the cheque is known as Payee (*Frequently Asked in Exam*)

**Cheque types:**

1. **ORDER CHEQUE:**

A cheque which is payable to a particular person or his order is called an order cheque.

* This is a cheque whereby the printed word “Bearer” on the cheque is cancelled. The cancellation of the word “Bearer” automatically makes the cheque an “order” cheque.
* An order cheque can be paid to the named payee across the bank’s account if so presented.
* Identification must be insisted on by the bank when encashing the order cheque for the presenter. The ID number and the named payee’s signature will be asked for on the back of the cheque.
1. **BEARER CHEQUE :**

A cheque which is payable to a person whosoever bears, is called bearer cheque.

* The cheque sometimes can be made payable to “Cash” or bearer or made payable to a specific name, for example, “bujji sekhar or Bearer”.
* This cheque is payable by the drawee bank over the counter to the Bearer or presenter of the cheque.
* A Bearer cheque can be negotiated or pass to another person by mere delivery. In other words, the holder (or the Transferer), when giving it to another person need not endorse the cheque.
* **No identification is needed when a bearer cheque is presented for** encashment. However, in normal banking practice, where the amount of the cheque is substantial, the identity of the encasher is insisted on.
* A bearer cheque can be collected by the bank for the credit of anyone’s account
* In banking practice, the need for the encasher’s signature on the back of the cheque is merely to evidence that the encasher has received the money from the bank.
* It is also known as open cheque or uncrossed cheque.
* The cheque is negotiable from the date of issue up to three months. It turns stale after the completion of three months and needs to be revalidated before presenting to the bank.
1. **BLANK CHEQUE:**

A cheque on which the drawer puts his signature and leaves all other columns blank is called a blank cheque.

1. A check that is signed by the payer but with no specific amount indicated, leaving this determination up to the drawee.
2. More generally, a term used for any situation in which an usually high level of trust is afforded by one party to another.

**4. COUNTER CHEQUE:**

Blank cheque was also commonly used as a synonym for counter cheque. requiring that cheque be MICR encoded in order to be handled by their clearing houses, it was fairly common for banks, especially in small towns, to issue cheque to customers which were not personalized other than the name of the bank.

Businesses would have pads of counter cheque which did not even have the bank specified on them – the customer had to not only fill in the value of the cheque, the date, and their signature, but also had to designate the bank on which funds were to be drawn.

1. **STALE CHEQUE:**

Check presented at the paying bank after a certain period (typically six months) of its payment date. A stale check is not an invalid check, but it may be deemed an ‘irregular’ bill of exchange. A bank may refuse to honor it unless its drawer reconfirms it payment either by inserting a new payment date or by issuing a new check. Also called stale dated check.

6. **MULTILATED CHEQUE:**

If a cheque is torn into two or more pieces such cheque is Mutilated Cheque. If it   presented for payment, such a cheque the bank will not make payment against such a cheque without getting confirmation of the drawer.  In case, if a cheque is torn at the corners and no material fact is erased or cancelled, the bank may make payment against such a cheque.

If the payee is clear, signature and the MICR line intact – they can process it. There are sealable plastic carriers used to put such cheques through the high speed transports used in Clearing.

1. **POST DATED CHEQUE:**

If a cheque bears a date later than the date of issue, it is termed as post dated cheque.

Any check or draft that has a future date written upon it by the user. The amount of the check will not be drawn from the account until the date written on the check. For example, a check written on the 14th of the month but dated for the 28th will not be cashed for another two weeks.

1. **OPEN CHEQUE:**
* A cheque that is not a crossed cheque. The person whose name appears on the cheque can write the name of another person on it, and the money will be paid to them.
* An open cheque is a cheque that is not crossed on the left corner and payable at the drawee bank on presentation of the cheque.
* The words ‘OPEN’ should not be struck off and the person issuing the cheque should sign on the reverse of the cheque also before giving it to another person; otherwise the bank may refuse payment. The latter can collect the money from any branch of the bank nowadays, depending on the bank. S/he should also sign at the back of the cheque while receiving the amount.
1. **CROSSED CHEQUE**

A crossed cheque is one which has two short parallel lines marked across its face.

* A cheque which carries too parallel transverse lines across the face of the cheque with or without the words “I and co”, is said to be crossed.
* Crossed cheques are of two types. By simply crossing a cheque or with the words ” & Co”, by the payer, the payee can either deposit it in his/her account or endorse it in favour of another person on the reverse. This practice is nowadays not accepted by the banks.
* The advantage of crossing is that it reduces the danger of unauthorised persons getting possession of a cheque and cashing it. A crossed cheque can only be cashed through a bank of which the payee of the cheque is a customer.
* A cheque crossed generally will be paid to any bank through which it is presented.
* A cheque crossed specially will be paid only when it is presented for collection by the bank named between the parallel lines. Such crossing affords a greater measure of protection against loss.
1. **GIFT CHEQUES**

Gift cheque, it is a cheque forirted in decorative form issued for a small extra charge by the banks for use by customers who wish to give presents of money on special occasions.

Gift cheques may be purchased in unlimited numbers from every branch of the ‘X’ Bank.

Gift cheques may be used to give presents of money as

* Birthday Gift
* Wedding Gift
* Honour Gift
* EASI SMART Gift

Gift cheques are used for offering presentations on occasions like birthday, weddings and such other situations. It is available in various denominations.

**Features and Benefits**

* Convenient
* Pre-denominated
* Elegant – Improve promotional impact with packaging customization and personalization options
* Flexible – Provide redemption flexibility by offering the reward with no expiration date
* Replaceable – Protect your investment and offer Reward Earners increased security and peace of mind with lost and stolen Cheque protection
* Simple – Order and administer rewards easily for timely reinforcement
* Reliable – Feel at ease with the American Express brand name — it conveys reliability, security and prestige

1. **TRAVELLER’S CHEQUES**:

It is an instrument issued by a bank for remittance of money from one place to another.

Travelers Cheques are accepted almost everywhere and are available in many denominations. Plus, the no-expiration feature allows you to cash in leftover cheques or retain them for the next time you travel.

**benefits**

* Convenience : Easy to use. Secured to protect your money when on the move.
* Choice : Available in United States Dollars (USD), Great Britain Pounds (GBP), EURO, Japanese Yen (JPY), Australian Dollars (AUD) and Canadian dollars (CAD).
* Acceptance : Accepted worldwide in over 400,000 locations spread across 200 countries. TCs can be encashed or used at Exchange bureaus, Banks, Hotels Shops, Restaurants and other establishments.
* Security : Signature based security. If your cheques are lost or stolen, the 24 hour Call Centre is just a phone call away. Replacement of lost TCs is attended to on priority across the world.
* Buy-Back : When you return back to India, you can encash any unused TCs issued by us, at any of the Axis Bank Branches.
* Expiry : Valid forever! You can save any unused Travellers Cheques for future trips.

**12. SELF CHEQUES**:

A self cheque is written by the account holder as pay self to receive the money in the physical form from the branch where he holds his account. It comes under bearer cheque where instead of writing the name, the account holder writes “self” to receive money physically from the branch where he holds the account.

If your friend wants to pay YOU the amount of 10000/-, he/she should have written YOUR NAME in the space provided for PAYEE on the cheque. If he/she has written SELF in that area, it is supposed to be used by him (or the bearer as written on the cheque) and whoever possess that cheque can go to the same branch and bank of the account holder to cash the cheque.

**13. BANKERS CHEQUE**:

The banker’s cheque is an instrument issued by the bank on behalf of customer containing an order to pay a certain sum to a specified person within the city. The validity period of the Banker’s cheque is 3 months, however it can be re-validated subject to some legal formalities.

* In Banker’s cheque the chances of dishonor is not possible because it is always prepaid. It is always pre-printed with the words ‘not negotiable’ which means it cannot be further negotiated.
* Banker’s Cheque or Payment Order is a cheque issued for making payments within the same city.
* Banker’s cheque is valid up to 3 months from the date of issue.
* All banker’s cheque are pre-printed with “NOT NEGOTIABLE”.
* It can be cleared in any branch of the same city.

**14. OUTSTANDING CHEQUE:**

A cheque which has been written and therefore has been entered in the company’s ledgers, but which has not been presented for payment and so has not been debited from the company’s bank account.

**15. ACCOUNT PAYEE CHEQUE:**

A bearer cheque becomes an account payee cheque by writing “Account Payee” or crossing it twice with two parallel lines on the left-hand side top corner.

* It is considered the safest type of cheque and is also known as a crossed cheque.

 **What is Cheque alteration?**

An altered check is a check or another negotiable instrument that has been materially and maliciously altered to effect a fraud. Usually, either the name of the payee, the amount of the check, or the date is changed.

**WHAT IS MARKING OF CHEQUE?**

A person may not like to part with goods in return for a cheque from a party not well known to him.in such context the banker on whom the cheques is drawn may be asked by the customers to mark the cheques as good for payment. This implies that cheque was drawn in good faith and on funds sufficient to meet it.

Crossing of Cheque

**Definition**: Crossing of a cheque is nothing but instructing the banker to pay the specified sum through the banker only, i.e. the amount on the cheque has to be deposited directly to the bank account of the payee.

## Types of Crossing

The way a cheque is crossed specified the banker on how the funds are to be handled, to protect it from fraud and forgery. Primarily, it ensures that the funds must be transferred to the bank account only and not to encash it right away upon the receipt of the cheque. There are several types of crossing.

1. **General Crossing**: When across the face of a cheque two transverse parallel lines are drawn at the top left corner, along with the words & Co., between the two lines, with or without using the words not negotiable. When a cheque is crossed in this way, it is called a general crossing.

2. **Restrictive Crossing**: When in between the two transverse parallel lines, the words ‘A/c payee’ is written across the face of the cheque, then such a crossing is called restrictive crossing or account payee crossing. In this case, the cheque can be credited to the account of the stated person only, making it a non-negotiable instrument.

3. **Special Crossing**: A cheque in which the name of the banker is written, across the face of the cheque in between the two transverse parallel lines, with or without using the word ‘not negotiable’. This type of crossing is called a special crossing. In a special crossing, the paying banker will pay the sum only to the banker whose name is stated in the cheque or to his agent. Hence, the cheque will be honoured only when the bank mentioned in the crossing orders the same.

4. **Not Negotiable Crossing**: When the words not negotiable is mentioned in between the two transverse parallel lines, indicating that the cheque can be transferred but the transferee will not be able to have a better title to the cheque.

5. **Double Crossing**: Double crossing is when a bank to whom the cheque crossed specially, further submits the same to another bank, for the purpose of collection as its agent, in this situation the second crossing should indicate that it is serving as an agent of the prior banker, to whom the cheque was specially crossed.


The crossing of a cheque is done to ensure the safety of payment. It is a well-known mechanism used to protect the parties to the cheque, by making sure that the payment is made to the right payee. Hence, it reduces fraud and wrong payments, as well as it protects the instrument from getting stolen or encashed by any unscrupulous individual.

**A cheque lost in transit**

Depositing a cheque in the bank doesn’t always guarantee that it will reach its destination. There are times it gets lost due to the circuitous banking procedures. Often, however, it is misplaced when it is withheld after being dishonoured. And if you haven’t applied for the SMS alert facility, it’s likely you won’t even know that the amount hasn’t been credited till you examine your account.

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