

# SENGAMALA THAYYAR EDUCATIONAL TRUST WOMEN'S COLLEGE, MANNARGUDI.



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**CLASS : I.B.COM**  
**SUBJECT : BANKING THEORY**  
**LAW & PRACTICE**

**SUBJECT CODE : 16CCCCM4**

**E-CONTENT MATERIALS**

## **INDRODUCTION:**

As paying banker, a banker pays cheque that are drawn upon him by his customers or by arrangement upon another branch by customers of that branch.

As collecting banker, he collects the proceeds of cheques drawn on the bankers and branches which have been paid in by customers for the credit of their accounts.

## **PAYING BANKER DEFINITION:**

The bank on which a bill of exchange (including a cheque ) has been drawn and which is responsible for paying it is correctly drawn and correctly endorsed (if necessary) form: paying banker in a dictionary of finance and banking.

## **PAYING BANKER MEWANING:**

The banker on whom the cheque is drawn or the banker who is required to pay the cheque drawn on him by a customer is called the paying banker or Drawee banker.

## **PRECAUTIONS TO BE TAKEN BY A PAYING BANKER:**

- ❖ He should see that the cheque is drawn in proper form and satisfies all the requirements of a valid cheque.
- ❖ He should verify whether the cheque is dated or not.
- ❖ He should satisfy himself that the amount payable is certain.
- ❖ He should see whether there is sufficient amount in the bank account
- ❖ The banker should see whether the cheque is signed by the drawer.
- ❖ The banker should see whether the cheque is drawn on the same branch of the bank in which the drawer has his account.

- ❖ When a cheque is presented to him at the counter, the paying bankers must verify whether it is an open (I.e., uncrossed cheque or crossed cheque).
- ❖ The banker should see whether there is any material alteration in the cheque.
- ❖ When a cheque presented for payment is mutilated, he should check whether it is intentional or accidental.

## **PRODUCTION TO PAYING BANKER:**

The paying banker is given some statutory protection in respect of risks or difficulties faced by him.

The protection to the paying banker is laid down in section 85(1), 16(2), 85(2), 85(A), 89 and 128 of the negotiable instruments act of 1881.

## **DUTIES OF A COLLECTING BANKER:**

- ✓ Collecting cheques with due care and presenting it to drawee in reasonable time.
- ✓ Presenting the cheque to drawee banker on next working day in case if both the banks are located in same area.
- ✓ Sending the cheque through clearing house or post to drawee bank in case of outstation bank.
- ✓ Taking due care and precaution for the interest of true owner of cheque.
- ✓ Verify the endorsement properly on order cheque.



## **PRECAUTIONS TO BE TAKEN BY A COLLECTING BANKER:**

- Crossed cheques only: To avail the protection under section 131, the collecting banker should only accept crossed cheques. Open or bearer cheques generally do not require the service form the collecting bank. (Drawee bank becomes the collecting bank)
  
- The banker cannot cross the cheque afterwards, it must be a crossed cheque before it is presented at the counter for encashment.

- ✓ Payment collected must be for a customer.: Section 131 provides protection to the banker if he is working as an agent of the banker and not a holder for value.
- ✓ If the banker is having interest in the collection of cheque and is acting as a holder, i.e, not collecting cheque as an agent then the banker cannot avail protection against the conversion.

## **LEGAL/ STATUTORY PROTECTION TO THE COLLECTING BANKER IN:**

- Section 131 of the negotiable instrument act 1881 provides the protection to the collecting banker against the risk of conversion as follows.
- “ A banker who has in good faith and without negligence received payment of a cheque for a customer, crossed generally or specially to himself, shall not, in case of the title to the cheque proves defective, incur any liability to the true owner of the cheque by reason only of having received such payment.”

The protection will be available to the collecting banker if the following conditions are satisfied:

1. The cheque must be crossed cheque.
2. The payment must be received for a customer.
3. Payment must be received in good faith and without negligence.

## **THE RIGHTS OF A BANKER AS A HOLDER FOR VALUE:**

- ❖ If the bank acts as a holder, his rights will be the same as of holder in due course. Hence, the collecting banker enjoys all the rights and liabilities of a holder and hence, a holder in due course. Notes that the title of holder in due course is superior to the title of true owner.
- ❖ If the cheque sent for collection is dishonored, then the collecting banker can sue all previous parties after giving them notice of dishonor. It is however essential that the amount of cheque is paid to the customer in good faith.

□ If there is a forged endorsement on the back of the cheque then the paying banker is liable to compensate the damage caused to the true owner and the collecting banker possesses the right to recover this damage from the last endorser. So, in case of an instrument containing forgery the title of true owner is superior. If the last endorser i.e the customer is unable to meet the liability then the banker will have to bear the burden.

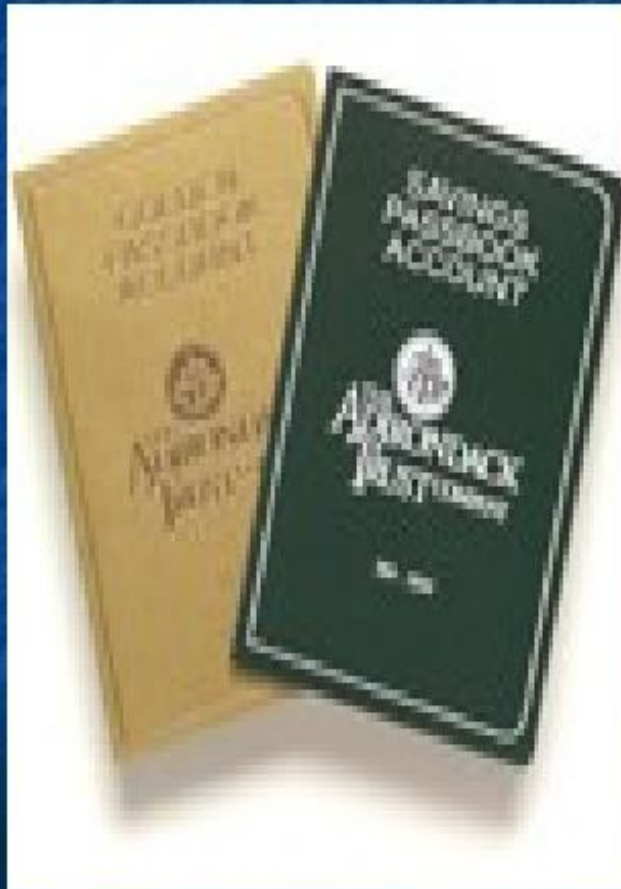
# **COLLECTING BANKER AS A HOLDER FOR VALUE:**

- a) If the bank allows his customer to withdraw money before cheque paid in for collection are actually collected and credited.
- b) If any open cheque is accepted and the value is paid before collection and/or.
- c) If there is a reduction in the overdraft amount of the customer before the cheque is collected and credited in the respective account.

- a) If he gives its value to the customer by lending further on the strength of the cheques.
- b) If he gives its value to the customer by paying over the amount of the cheque or part of it in cash or in account before it is cleared.
- c) If he gives cash over the counter for the cheque at the time it is paid in for collection.



# PASS BOOK



- ❖ A pass book is a booklet wherein a banker records his customer's account as it appears in his ledger.

❖ A pass book is maintained in the form of a ledger account with debit entries on the left hand side and credit entries on the right hand side.

❖ All the amounts deposited by a customer are credited and the cheques paid by banks against his account are debited.

✓ Duplicate Pass Book can be obtained in case of the original pass book being lost / spoilt / destroyed.

✓ If the Pass Book is lost / destroyed, the depositor should present an application in the form prescribed for the purpose. A fee of Rs.10/- should be paid at the time of applying. The fee is payable in the form of postage stamps affixed to the application.

❑ If the pass book is spoilt, the same should be presented along with the application. A manuscript application is allowed in this case.

❑ Duplicate pass books are issued only after confirming the genuineness of the application and verification of the depositor's identity. Signature and the account balance.

❑ In case the original pass book is submitted after issue of duplicate pass book, transactions are not entered in the original pass book. It is treated as cancelled and retained by the post office.

# REQUEST LETTER FOR DUPLICATE BANK PASS BOOK

These are sample request letter for duplicate bank passbook. What to do if passbook is lost? Here you would learn how to write an application for duplicate passbook. You can modify this format as your requirement.

Date.....

Branch manager,

Bank/institute name.....

Branch address.....

**Sub: Request Letter for issue Duplicate Bank Passbook**

**Dear sir,**

It is to bring in your knowledge that I am a customer of your branch and I have been maintaining my account for several years. I have lost my passbook on yesterday (Date). My name is (Name) and account number is (123-456-789). I did report this to the bank already but I would like to follow up and see what more that can be done.

Please issue a new passbook for me. I shall be highly grateful to you.

**CHEQUE**

## **CHEQUE:**

A 'Cheque' is a 'bill of exchange; drawn on a specified banker and not expressed to be payable otherwise than on demand. It includes the electronic image of a truncated cheque and a cheque in the electronic form.

(OR)

Cheque is an instrument in writing containing an unconditional order, addressed to a banker, sign by the person who has deposited money with the banker, requiring him to pay on demand a certain sum of money to or to the order of certain person or to the bearer of instrument.



## **CHARACTERISTICS OF CHEQUE:**

- Cheque is an instrument in writing.
- Cheque contains an unconditional order.
- Cheque is drawn by a customer on his bank.
- Cheque must be signed by customer.
- Cheque must be payable on demand.
- Cheque must mention exact amount to be paid.
- Payee must be certain to whom payment is made.
- Cheque must be duly dated by customer of bank.
- Cheque has 3 parties : Drawer, Drawee & Payee.

# Specimen of a cheque

Date ..... 20.....

Pay..... or Bearer

Rupees..... Rs.

.....

A/c No.	<input type="text"/>
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State Bank of India

Dispur

Guwahati

# Electronic Payment System



## **ELECTRONIC PAYMENT SYSTEMS : DEFINITION:**

The definition of an electronic payment system is a way of paying for a goods or services electronically, instead of using cash or a check, in person or by mail. An example of an electronic payment system is pay pal. An example of an electronic payment system is the use of a credit card.

## **ESC/ NEFT/ RTGS ELECTRONIC CLERANING SERVICE:**

The MICR Code allotted to a bank branch is printed on the MICR band of cheques issued by bank branches national electronic funds transfer (NEFT) is a nation-wide payment system facilitating one-to-one funds transfer 50,000/- at the NEFT enabled branches with instructions to transfer funds using NEFT.

## **NEFT- National Electronic Fund Transfer :**

National electronics fund transfer (NEFT) is a country –wide electronic fund transfer system for sending money from one bank account to another in a safe and hassle-free manner. All NEFT settlements are made in a batch wise format. Money can be sent using this systems to all NEFT enabled banks in India on an individual basis.