

(2) Where the banker on whom a cheque is drawn which is so crossed nevertheless pays the same, or pays a cheque crossed generally otherwise than to a banker, or if crossed specially otherwise than to the banker to whom it is crossed, or his agent for collection being a banker, he is liable to the true owner of the cheque for any loss he may sustain owing to the cheque having been so paid:

Provided that where a cheque is presented for payment which does not at the time of presentment appear to be crossed, or to have had a crossing which has been obliterated, or to have been added to or altered otherwise than as authorized by this Ordinance, the banker paying the cheque in good faith and without negligence shall not be responsible or incur any liability, nor shall the payment be questioned by reason of the cheque having been crossed, or of the crossing having been obliterated or having been added to or altered otherwise than as authorized by this Ordinance, and of payment having been made otherwise than to a banker or to the banker to whom the cheque is or was crossed, or to his agent for collection being a banker, as the case may be.

Protection to
banker and
drawer where
cheque is
crossed.

80. Where the banker on whom a crossed cheque is drawn, in good faith and without negligence pays it, if crossed generally, to a banker, and if crossed specially, to the banker to whom it is crossed, or his agent for collection, being a banker, the banker paying the cheque, and, if the cheque has come into the hands of the payee, the drawer, shall respectively be entitled to the same rights and be placed in the same position as if payment of the cheque had been made to the true owner thereof.

Effect of
crossing with
words
" not
negotiable"
on holder,
[S.6.30 of
1961.]

81. Where a person takes a crossed cheque which bears on it the words " not negotiable ", he shall not have and shall not be capable of giving a better title to the cheque than that which the person from whom he took it had.

Protection to
collecting
banker.

82. (1) Where a banker in good faith and without negligence receives payment for a customer of a cheque crossed generally or

specially to himself, and the customer has no title or a defective title thereto, the banker shall not incur any liability to the true owner of the cheque by reason only of having received such payment.

(2) A banker receives payment of a crossed cheque for a customer within the meaning of this section notwithstanding that he credits his customer's account with the amount of the cheque before receiving payment thereof.

83. Sections 76 to 82, both inclusive, of this Ordinance shall extend to any document issued by a customer of any banker, and intended to enable any person or body corporate to obtain payment from such banker of the sum mentioned in such document, and shall so extend in like manner as if the said document were a cheque:

Extension of
sections 76 to
82 to certain
drafts on
bankers.

Provided that nothing in this Ordinance shall be deemed to render any such document a negotiable instrument.

For the purpose of this section, the Deputy Secretary to the Treasury shall be deemed to be a banker, and the public officers drawing on him shall be deemed customers.

84. Sections 76 to 82, both inclusive, of this Ordinance shall apply to a banker's draft as if that draft were a cheque.

Application
of sections
76 to 82 to
drafts drawn
by a bank on
itself.

For the purposes of this section, the expression " banker's draft " means a draft payable on demand drawn by or on behalf of a bank upon itself, whether payable at the head office or some other office of the bank.

PART IV

' PROMISSORY NOTES

85. (1) A promissory note is an Promissory unconditional promise in writing made by note defined. one person to another signed by the maker, engaging to pay, on demand or at a fixed or determinable future time, a sum certain in money, to,- or to the order of, a specified person or to bearer.

(2) An instrument in the form of a note payable to maker's order is not a note within the meaning of this section, unless and until it is indorsed by the maker.

(3) A note is not invalid by reason only that it contains also a pledge of collateral security with authority to sell or dispose thereof.

(4) A note which is, or on the face of it purports to be, both made and payable within Sri Lanka is an inland note. Any other note is a foreign note.

Delivery
necessary.

86. A promissory note is inchoate and incomplete until delivery thereof to the payee or bearer.

Joint and
several notes.

87. (1) A promissory note may be made by two or more makers, and they may be liable thereon jointly, or jointly and severally, according to its tenor.

(2) Where a note runs " I promise to pay " and is signed by two or more persons, it is deemed to be their joint and several note.

Note payable
on demand.

88. (1) Where a note payable on demand has been indorsed, it must be presented for payment within a reasonable time of the indorsement. If it be not so presented the indorser is discharged.

(2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade, and the facts of the particular case.

(3) Where a note payable on demand is negotiated, it is not deemed to be overdue, for the purpose of affecting the holder with defects of title of which he had no notice, by reason that it appears that a reasonable time for presenting it for payment has elapsed since its issue.

Presentment of
note for
payment to
render maker
liable.

89. (1) Where a promissory note is in the body of it made payable at a particular place, it must be presented for payment at that place in order to render the maker liable. In any other case, presentment for payment is not necessary in order to render the maker liable.

(2) Presentment for payment is necessary in order to render the indorser of a note liable.

(3) Where a note is in the body of it made payable at a particular place, presentment at that place is necessary in order to render an indorser liable; but when a place of payment is indicated by way of memorandum only, presentment at that place is sufficient to render the indorser liable, but a presentment to the maker elsewhere, if sufficient in other respects, shall also suffice.

90. The maker of a promissory note by making it— Liability of
maker-

- (a) engages that he will pay it according to its tenor;
- (b) is precluded from denying to a holder in due course the existence of the payee and his then capacity to indorse.

91. (1) Subject to the provisions in this Part. and except as by this section provided, the provisions of this Ordinance relating to bills of exchange apply, with the necessary modifications, to promissory notes. Application of
part II to
notes

(2) In applying those provisions the maker of a note shall be deemed to correspond with the acceptor of a bill, and the first indorser of a note shall be deemed to correspond with the drawer of an accepted bill payable to drawer's order.

(3) The following provisions as to bills do not apply to notes, namely, provisions relating to—

- (a) presentment for acceptance;
- (b) acceptance;
- (c) acceptance supra protest;
- (d) bills in a set.

(4) Where a foreign note is dishonoured, protest thereof is unnecessary.