

# Compendium of Selected Acts of 1881: Laws of Bangladesh

## Introduction

This document presents a cleaned and consolidated compilation of three significant legislative acts from 1881, as sourced from the official Laws of Bangladesh portal. The purpose is to provide a clear, accessible, and professionally formatted version of these historical legal texts, free from extraneous web formatting and code. To better understand the place of these laws within the nation's legal framework, the acts are first placed within their historical legislative context.

## 1.0 Chronological Index of Legal Volumes

The following index provides a broad chronological overview of the collected laws of Bangladesh, situating the 1881 acts within the nation's larger legal history. The volumes listed below represent the official compilation of Acts and Ordinances passed over more than two centuries.

- Regulation V of 1799 to Act No. I of 1872
- Act No. III of 1872 to Act No. II of 1882
- Act No. IV of 1882 to Act No. III of 1898
- Act No. V of 1898 to Act No. II of 1899
- Act No. IV of 1899 to Act No. V of 1908
- Act No. VI of 1908 to Act No. VI of 1913
- Act No. II of 1914 to Act No. XXVI of 1925
- Act No. XXXIX of 1925 to Act No. XIV of 1936
- Act No. I of 1937 to Ordinance No. VII of 1941
- Bengal Act No. IV of 1942 to E. B. Act No. XXVIII of 1951
- Act No. II of 1951 to Act No. XXXVIII of 1957
- E.P. Act No. XV of 1957 to Ordinance No. XXXV of 1961
- Ordinance No. XLV of 1961 to E. P. Ordinance No. VIII of 1963
- E. P. Act No. IX of 1964 to A. P. O. No. 3 of 1971
- The Constitution of 1972 to P. O. No. 76 of 1972
- P.O. No. 77 of 1972 to Act No. VII of 1973
- Act No. VIII of 1973 to Act No. XXXI of 1973
- Act No. XXXIII of 1973 to Act No. XXV of 1974
- Act No. XXVI of 1974 to Ordinance No. L of 1976
- Ordinance No. LII of 1976 to Ordinance No. LXIII of 1977
- Ordinance No. II of 1978 to Act No. XXII of 1980
- Act No. XXIII of 1980 to Ordinance No. VIII of 1982
- Ordinance No. XII of 1982 to Ordinance No. XXVI of 1983
- Ordinance No. XXVII of 1983 to Ordinance No. LV of 1983
- Ordinance No. LVI of 1983 to Ordinance No. XXXVI of 1984
- Act No. XXXVII of 1984 to Act No. LXIV of 1986
- ১৯৮৭ সনের ২ নং আইন হইতে ১৯৮৯ সনের ৩৭ নং আইন পর্যন্ত
- ১৯৯০ সনের ৭ নং আইন হইতে ১৯৯১ সনের ২১ নং আইন পর্যন্ত
- ১৯৯১ সনের ২২ নং আইন হইতে ১৯৯৩ সনের ১৮ নং আইন পর্যন্ত
- ১৯৯৩ সনের ১৯ নং আইন হইতে ১৯৯৪ সনের ২৬ নং আইন পর্যন্ত
- ১৯৯৫ সনের ১ নং আইন হইতে ১৯৯৮ সনের ৮ নং আইন পর্যন্ত

- ১৯৯৮ সনের ১২ নং আইন হইতে ২০০০ সনের ১৯ নং আইন পর্যন্ত
  - ২০০০ সনের ২০ নং আইন হইতে ২০০১ সনের ৩০ নং আইন পর্যন্ত
  - ২০০১ সনের ৩১ নং আইন হইতে ২০০১ সনের ৪৫ নং আইন পর্যন্ত
  - ২০০১ সনের ৪৬ নং আইন হইতে ২০০৩ সনের ৩১ নং আইন পর্যন্ত
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  - ২০০৬ সনের ৬ নং আইন হইতে ৩৯ নং আইন পর্যন্ত
  - ২০০৬ সনের ৪০ নং আইন হইতে ৪৮ নং আইন পর্যন্ত
  - ২০০৯ সনের ১নং আইন হইতে ৬৬ নং আইন পর্যন্ত
  - ২০১০ সনের ১নং আইন হইতে ৬৩নং আইন পর্যন্ত
  - ২০১১ সনের ১ নং আইন হইতে ২৩ নং আইন পর্যন্ত
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  - ২০১৪ সনের ১ নং আইন হইতে ১৯ নং আইন পর্যন্ত
  - ২০১৫ সনের ১ নং আইন হইতে ২৯ নং আইন পর্যন্ত
  - ২০১৬ সনের ১ নং আইন হইতে ৫০ নং আইন পর্যন্ত
  - ২০১৭ সনের ১ নং আইন হইতে ২৪ নং আইন পর্যন্ত
  - ২০১৮ সনের ১ নং আইন হইতে ৭১ নং আইন পর্যন্ত
  - ২০১৯ সনের ১ নং আইন হইতে ১৯ নং আইন পর্যন্ত
  - ২০২০ সনের ১ নং আইন হইতে ২৭ নং আইন পর্যন্ত
  - ২০২১ সনের ১ নং আইন হইতে ৩১ নং আইন পর্যন্ত
  - ২০২২ সনের ১ নং আইন হইতে ২১ নং আইন পর্যন্ত
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  - ২০২৪ সনের ০১ নং অধ্যাদেশ হইতে ১৭ নং অধ্যাদেশ
  - ২০২৫ সনের ০১ নং অধ্যাদেশ হইতে ৮০ নং অধ্যাদেশ
  - ২০২৬ সনের ০১ নং অধ্যাদেশ হইতে ১৮ নং অধ্যাদেশ
- Having established this broader context, the document will now present the full text of the selected acts from 1881.

## 2.0 The Municipal Taxation Act, 1881

**(ACT NO. XI OF 1881)** *Enacted on 25th February, 1881* *An Act to give power to prohibit the levy of municipal taxes in certain cases.* This Act was established to give the Government the power to prohibit the levy of certain municipal taxes in specific cases. Its primary purpose is to empower the Government to prevent municipalities from collecting specified taxes from individuals serving in the military, naval, or air forces, or from the Government itself, under certain conditions. **Preamble** WHEREAS it is expedient to empower the Government to prohibit, in certain cases, the levy of municipal taxes payable by persons in the military, naval or air-force service or by the Government; It is hereby enacted as follows:- **1. Short title** This Act may be called the Municipal Taxation Act, 1881. **Local extent** It extends to the whole of Bangladesh. **2. “Municipal Committee” defined** In this Act “Municipal Committee” includes a Paurashava or a Municipal Corporation or a body of Municipal Commissioners constituted by or under the provisions of any enactment for the time being in force. **3. Power to prohibit levy of tax** Notwithstanding anything contained in any enactment for the time being in force, the Government may, by an order in writing, prohibit the levy by a Municipal Committee of any specified tax- (a) payable by any person subject to the Army Act, 1952, the Naval Discipline Ordinance, 1961 or the Air Force Act, 1953 who is compelled by the exigencies of Military, Naval or Air-force duty to reside within the limits of a municipality; The Government may, by a like order, rescind any such prohibition. **3A. Power of Government to**

**prohibit levy of taxes on it** Notwithstanding anything in any enactment for the time being in force, the Government may by an order in writing prohibit the levy by a Municipal Committee of any specified tax payable by the Government and may by a like order rescind any such prohibition.**4. Government to pay taxes referred to in section 3** So long as any order made under section 3, prohibiting the levy of a tax on any person mentioned in that section remains in force, the Government shall be liable to pay to the Municipal Committee mentioned in the order the amount which otherwise would have been payable to such Committee by such person: Provided that the Government shall not be liable to pay any sum in respect of any horse which such person is bound, by the regulations of the service to which he belongs, to keep.**5. Payments to be made in lieu of taxes referred to in section 3A** So long as any order made under section 3A prohibiting the levy of any tax payable by the Government, remains in force, the said Government shall be liable to pay to the Municipal Committee, in lieu of such tax, such sums (if any) as an officer from time to time appointed in this behalf by the Government may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.**6. Decision of questions arising under this Act** If any question arises whether any duty is military, naval or air-force duty within the meaning of this Act, the decision of the Government thereon shall be conclusive. If any question arises whether any person is compelled as aforesaid to reside within the limits of a municipality or is bound as aforesaid to keep any horse, the decision thereon of such authority as the Government may, from time to time, appoint in this behalf shall be conclusive.

#### Footnotes

1. Throughout this Act, except otherwise provided, the word "Government" was substituted, for the words "Provincial Government" or "Central Government" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).
2. The word "Bangladesh" was substituted, for the word "Pakistan" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).
3. The words "includes a Paurashava or a Municipal Corporation" were substituted, for the words "includes a Municipal Corporation" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).
4. The words, commas and figures "the Army Act, 1952, the Naval Discipline Ordinance, 1961 or the Air Force Act, 1953" were substituted, for the words, commas, figures and bracket "the Army Act, the Indian Army Act, 1911 or the Pakistan Army Act, 1952, the Naval Discipline Act or that Act as modified by the Pakistan Navy (Discipline) Act, 1934, the Air Force Act or the Indian Air Force Act, 1932 or the Pakistan Air Force Act, 1953" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).The compendium continues with the next act from 1881 concerning navigational fairways.

### 3.0 The Obstructions in Fairways Act, 1881

**(ACT NO. XVI OF 1881)***Enacted on 15th March, 1881An Act to empower the Government to remove or destroy obstructions in fairways, and to prevent the creation of such obstructions.*This Act empowers the Government to manage and protect navigational fairways leading to ports. Its primary function is to authorize the government to remove or

destroy existing obstructions to navigation and to prevent the creation of new ones, ensuring the safety and accessibility of maritime routes.

**Preamble** WHEREAS it is expedient to empower the Government to remove or destroy obstructions to navigation in fairways leading to ports in Bangladesh and to prevent the creation of such obstructions; It is hereby enacted as follows:-

**1. Short title** This Act may be called the Obstructions in Fairways Act, 1881; But nothing herein contained shall apply to vessels belonging to, or hired by a contract made on behalf of, the Government.

**2. Government empowered to remove or destroy obstruction in fairway** Whenever, in any fairway leading to any port in Bangladesh, any vessel is sunk, stranded or abandoned, or any fishing-stake, timber or other thing is placed or left, the Government may, if in its opinion such thing is, or is likely to become, an obstruction or danger to navigation,- (a) cause such thing or any part thereof to be removed; or (b) if such thing is of such a description or so situate that, in the opinion of the Government, it is not worth removing, cause the same or any part thereof to be destroyed.

**3. Government entitled to expenses incurred in removing obstruction** Whenever anything is removed under section 2, the Government shall be entitled to receive a reasonable sum, having regard to all the circumstances of the case, for the expenses incurred in respect of such removal.

*Dispute concerning such expenses* Any dispute arising concerning the amount due under this section, in respect of anything so removed, shall be decided by the District Magistrate having jurisdiction at the place where such thing is, upon application to him for that purpose by either of the disputing parties; and such decision shall be final.

**4. Notice of removal to be given by Government** The Government shall, whenever anything is removed under section 2, publish in the official Gazette a notification containing a description of such thing, and the time at which and the place from which the same was so removed.

**5. Things removed may, in certain cases, be sold** If, after publishing such notification, such thing is unclaimed, or if the person claiming the same fails to pay the amount due for the said expenses and any customs-duties or other charges properly incurred by the Government in respect thereof, the Government may sell such thing by public auction, if it is of a perishable nature, forthwith, and, if it is not of a perishable nature, at any time not less than six months after publishing such notification as aforesaid.

**6. Proceeds how applied** On realizing the proceeds of such sale, the amount due for expenses and charges as aforesaid, together with the expenses of the sale, shall be deducted therefrom, and the surplus (if any) shall be paid to the owner of the thing sold, or, if no such person appear and claim such surplus, shall be held in deposit for payment, without interest, to any person thereafter establishing his right to the same: Provided that he makes the claim within one year from the date of the sale.

**7. "Vessel" to include tackle, cargo, etc.** For the purposes of this Act, the term "vessel" shall be deemed to include also every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel; and any proceeds arising from the sale of a vessel, and of the cargo thereof, or of any other property recovered therefrom, shall be regarded as a common fund.

**8. Power to make rules to regulate and prohibit the placing of obstructions in fairways** The Government may, from time to time, by notification in the official Gazette, make rules to regulate or prohibit, in any fairway leading to a port in Bangladesh, the placing of fishing-stakes, the casting or throwing of ballast, rubbish or any other thing likely to give rise to a bank or shoal, or the doing of any other act which will in its opinion, cause, or be likely to cause, obstruction or danger to navigation.

**9. Penalty for breach of such rules** Whoever is guilty of any act or omission in contravention of the rules made under section 8 may be tried for such offence in any district in which he is found, and shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to

five hundred taka, or with both.**10. Compensation payable in certain cases for damage caused under this Act** Whenever the maintenance or creation of an obstruction in any fairway has become lawful by long usage or otherwise, and such obstruction is removed or destroyed under section 2, or its creation is regulated or prohibited under section 8, any person having a right to maintain or create such obstruction shall be entitled to receive from the Government reasonable compensation for any damage caused to him by such removal, destruction, regulation or prohibition. Every dispute arising concerning the right to such compensation, or the amount thereof, shall be determined according to the law for the time being in force relating to like disputes in the case of land needed for public purposes and not otherwise; and for the purposes of such law the fairway from or in which such obstruction was removed or destroyed, or in which its creation was regulated or prohibited, shall be deemed to be a part of the district in which the port to which such fairway leads is situate.**11. Omitted** Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).**12. Saving other powers possessed by Government** Nothing herein contained shall be deemed to prevent the exercise by the Government of any other powers possessed by it in this behalf.**13. Omitted** Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).

#### Footnotes

1. Throughout this Act, except otherwise provided, the words “Bangladesh” and “Government” were substituted, for the words “Pakistan” and “Central Government” respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973). We now proceed to the final and most detailed act in this collection, The Negotiable Instruments Act, 1881.

#### 4.0 The Negotiable Instruments Act, 1881

**(ACT NO. XXVI OF 1881)***Enacted on 9th December, 1881*This is a foundational piece of commercial legislation enacted to define and amend the law relating to key financial instruments. Its purpose is to provide a comprehensive legal framework governing promissory notes, bills of exchange, and cheques, thereby standardizing their use and ensuring clarity in commercial transactions.**Preamble**WHEREAS it is expedient to define and amend the law relating to promissory notes, bills of exchange and cheques; It is hereby enacted as follows:-

#### Chapter I: PRELIMINARY

**1. Short title** This Act may be called the Negotiable Instruments Act, 1881.

**Commencement** It extends to the whole of Bangladesh; but nothing herein contained affects the provisions of Articles 23 and 24 of the Bangladesh Bank Order, 1972; and it shall come into force on the first day of March, 1882.**1A. Application of the Act** Every negotiable instrument shall be governed by the provisions of this Act, and no usage or custom at variance with any such provision shall apply to any such instrument.**2. Repealed** Repealed by the Amending Act, 1891 (Act No. XII of 1891).**3. Interpretation-clause.** In this Act, unless there is anything repugnant in the subject or context,- (a) “accommodation party” means a person who has signed a negotiable instrument as a maker, drawer, acceptor or indorser without receiving the value thereof and for the purpose of lending his name to some other person; (b) “banker” means a person transacting the business of accepting, for the

purpose of lending or investment, of deposits of money from the public, repayable on demand or otherwise and withdrawable by cheque, draft, order or otherwise, and includes any Post Office Savings Bank; (c) "bearer" means a person who by negotiation comes into possession of a negotiable instrument, which is payable to bearer; (d) "delivery" means transfer of possession, actual or constructive, from one person to another; (e) "issue" means the first delivery of a promissory note, bill of exchange or cheque complete in form to a person who takes it as a holder; (f) "material alteration" in relation to a promissory note, bill of exchange or cheque includes any alteration of the date, the sum payable, the time of payment, the place of payment, and, where any such instrument has been accepted generally, the addition of a place of payment without the acceptor's assent; and (g) "notary public" includes any person appointed by the Government to perform the functions of notary public under this Act and a notary appointed under the Notaries Ordinance, 1961.

## Chapter II: OF NOTES, BILLS AND CHEQUES

**4. "Promissory note"** A "promissory note" is an instrument in writing (not being a bank-note or a currency-note) containing an unconditional undertaking, signed by the maker, to pay on demand or at a fixed or determinable future time a certain sum of money only to, or to the order of, a certain person, or to the bearer of the instrument. *Illustration(s)* A signs instruments in the following terms: (a) "I promise to pay B or order Taka 500." (b) "I acknowledge myself to be indebted to B in Taka 1,000 to be paid on demand, for value received." (c) "Mr. B, I O U Taka 1,000." (d) "I promise to pay B Taka 500 and all other sums which shall be due to him." (e) "I promise to pay B Taka 500, first deducting thereout any money which he may owe me." (f) "I promise to pay B Taka 500 seven days after my marriage with C." (g) "I promise to pay B Taka 500 on D's death, provided D leaves me enough to pay that sum." (h) "I promise to pay B Taka 500 and to deliver to him my black horse on 1st January next." The instruments respectively marked (a) and (b) are promissory notes. The instruments respectively marked (c), (d), (e), (f), (g) and (h) are not promissory notes.

**5. "Bill of exchange"** A "bill of exchange" is an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay on demand or at fixed or determinable future time a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument. A promise or order to pay is not "conditional", within the meaning of this section and section 4, by reason of the time for payment of the amount or any instalment thereof being expressed to be on the lapse of a certain period after the occurrence of a specified event which, according to the ordinary expectation of mankind, is certain to happen, although the time of its happening may be uncertain. The sum payable may be "certain," within the meaning of this section and section 4, although it includes future interest or is payable at an indicated rate of exchange, or is payable at the current rate of exchange, and although it is to be paid in stated instalments and contains a provision that on default of payment of one or more instalments or interest, the whole or the unpaid balance shall become due. Where the person intended can reasonably be ascertained from the promissory note or the bill of exchange, he is a "certain person" within the meaning of this section and section 4, although he is misnamed or designated by description only. An order to pay out of a particular fund is not unconditional within the meaning of this section; but an unqualified order to pay, coupled with- (a) an indication of a particular fund out of which the drawee is to reimburse himself or a particular account to be debited to the amount, or (b) a statement of the transaction which gives rise to the note or bill, is unconditional. Where the payee is a fictitious or non-existing person the bill of exchange may be treated as payable to bearer.

**6. "Cheque"** A "cheque" is a bill of exchange drawn on a specified banker and not

expressed to be payable otherwise than on demand.

**7. “Drawer” “Drawee” “Drawee in case of need” “Acceptor” “Acceptor for honour” “Payee”** The maker of a bill of exchange or cheque is called the “drawer;” the person thereby directed to pay is called the “drawee.” When in the bill or in any indorsement thereon the name of any person is given in addition to the drawee to be resorted to in case of need, such person is called a “drawee in case of need.” After the drawee of a bill has signed his assent upon the bill, or, if there are more parts thereof than one, upon one of such parts, and delivered the same, or given notice of such signing to the holder or to some person on his behalf, he is called the “acceptor”. When a bill of exchange has been noted or protested for non-acceptance or for better security, and any person accepts it supra protest for honour of the drawer or of any one of the indorsers, such person is called an “acceptor for honour.” “Acceptor for honour” The person named in the instrument, to whom or to whose order the money is by the instrument directed to be paid, is called the “payee”.

**8. “Holder”** The “holder” of a promissory note, bill of exchange or cheque means the payee or indorsee who is in possession of it or the bearer thereof but does not include a beneficial owner claiming through a benamidar.

*Explanation* - Where the note, bill or cheque is lost and not found again, or is destroyed, the person in possession of it or the bearer thereof at the time of such loss or destruction shall be deemed to continue to be its holder.

**9. “Holder in due course”** “Holder” in due course” means any person who for consideration becomes the possessor of a promissory note, bill of exchange or cheque if payable to bearer, or the payee or indorsee thereof, if payable to order, before it became overdue, without notice that the title of the person from whom he derived his own title was defective.

*Explanation* - For the purposes of this section the title of a person to a promissory note, bill of exchange or cheque is defective when he is not entitled to receive the amount due thereon by reason of the provisions of section 58.

**10. “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.

**11. Inland instrument** A promissory note, bill of exchange or cheque drawn or made in Bangladesh, and made payable in, or drawn upon any person resident in, Bangladesh shall be deemed to be an inland instrument.

**12. Foreign instrument** Any such instrument not so drawn, made or made payable shall be deemed to be a foreign instrument.

**13. “Negotiable instrument”** (1) A “negotiable instrument” means a promissory note, bill of exchange or cheque payable either to order or to bearer.

*Explanation (i)* - A promissory note, bill of exchange or cheque is payable to order which is expressed to be so payable or which is expressed to be payable to a particular person, and does not contain words prohibiting transfer or indicating an intention that it shall not be transferable.

*Explanation (ii)* - A Promissory note, bill of exchange or cheque is payable to bearer which is expressed to be so payable or on which the only or last indorsement is an indorsement in blank.

*Explanation (iii)* - Where a promissory note, bill of exchange or cheque either originally or by indorsement, is expressed to be payable to the order of a specified person, and not to him or his order, it is nevertheless payable to him or his order at his option.

(2) A negotiable instrument may be made payable to two or more payees jointly or it may be made payable in the alternative to one of two, or one or some of several payees.

**14. Negotiation** When a promissory note, bill of exchange or cheque is transferred to any person, so as to constitute that person the holder thereof, the instrument is said to be negotiated.

**15. Indorsement** When the maker or holder of a negotiable instrument signs the same, otherwise than as such maker, for the purpose of negotiation, on the back or face thereof or

on a slip of paper annexed thereto, or so signs for the same purpose a stamped paper intended to be completed as a negotiable instrument, he is said to indorse the same, and is called the "indorser". **16. Indorsement "in blank" and "in full" "Indorsee"** (1) If the indorser signs his name only, the indorsement is said to be "in blank", and if he adds a direction to pay the amount mentioned in the instrument to, or to the order of, a specified person, the indorsement is said to be "in full", and the person so specified is called the "indorsee" of the instrument. (2) The provisions of this Act relating to a payee shall apply with the necessary modifications to an indorsee. **17. Ambiguous instruments** Where an instrument may be construed either as a promissory note or bill of exchange, the holder may at his election treat it as either, and the instrument shall be thenceforward treated accordingly. **18. Where amount is stated differently in figures and words** If the amount undertaken or ordered to be paid is stated differently in figures and in words, the amount stated in words shall be the amount undertaken or ordered to be paid: Provided that if the words, are ambiguous or uncertain, the amount may be ascertained by referring to the figures. **19. Instruments payable on demand.** A promissory note or bill of exchange is payable on demand,- (a) where it is expressed to be so, or to be payable at sight or on presentment; or (b) where no time for payment is specified in it; or (c) where the note or bill accepted or indorsed after it is overdue, as regards the person accepting or indorsing it. **20. Inchoate stamped instruments** (1) Where one person signs and delivers to another a paper stamped in accordance with the law relating to stamp duty chargeable on negotiable instruments, either wholly blank or having written thereon an incomplete negotiable instrument, in order that it may be made, or completed into a negotiable instrument he thereby gives prima facie authority to the person who receives that paper to make or complete it, as the case may be, into a negotiable instrument for the amount, if any, specified therein, or, where no amount is specified for any amount, not exceeding, in either case, the amount covered by the stamp. (2) The person so signing shall, subject to the provisions of sub-section (3), be liable upon such instrument, in the capacity in which he signed the same, to any holder in due course, for the amount specified in the instrument or filled up therein: Provided that no person other than a holder in due course shall receive from the person so signing the paper anything in excess of the amount intended by him to be paid thereunder. (3) In order that any such instrument may on completion be enforceable against any person who became a party thereto before such completion, it must be filled up within a reasonable time and strictly in accordance with the authority given: Provided that if any such instrument after completion is negotiated to a holder in due course, it shall be valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up within a reasonable time and strictly in accordance with the authority given. **21. "At sight" "On presentment" "After sight"** The expression "after sight" means, in a promissory note, after presentment for sight, and, in a bill of exchange, after acceptance, or noting for non-acceptance, or protest for non-acceptance. **21A. When note or bill payable on demand is overdue** A promissory note or bill of exchange payable on demand shall be deemed to be overdue when it appears on the face of it to have been in circulation for an unreasonable length of time. **21B. A note or bill payable at a determinable future time** A promissory note or bill of exchange is payable at a determinable future time within the meaning of this Act if it is expressed to be payable- (a) at a fixed time after date or sight; or (b) on or at a fixed time after the occurrence of a specified event which is certain to happen, though the time of its happening may be uncertain. **21C. Anti-dating and post-dating** A promissory note, bill of exchange or cheque is not invalid by reason only that it is anti-dated or post-dated: Provided that anti-dating or post-dating does not involve any illegal or fraudulent purpose or



transaction.**22. “Maturity” Days of grace** The maturity of a promissory note or bill of exchange is the date at which it falls due. Every promissory note or bill of exchange which is not expressed to be payable on demand, at sight or on presentment is at maturity on the third day after the day on which it is expressed to be payable.**23. Calculating maturity of bill or note payable so many months after date or sight** In calculating the date at which a promissory note or bill of exchange, made payable a stated number of months after date or after sight, or after a certain event, is at maturity, the period stated shall be held to terminate on the day of the month which corresponds with the day on which the instrument is dated, or presented for acceptance or sight, or noted for non-acceptance, or protested for non-acceptance, or the event happens, or, where the instrument is a bill of exchange made payable a stated number of months after sight and has been accepted for honour, with the day on which it was so accepted. If the month in which the period would terminate has no corresponding day, the period shall be held to terminate on the last day of such month.*Illustration(s)* (a) A negotiable instrument, dated 29th January, 1878, is made payable at one month after date. The instrument is at maturity on the third day after the 28th February, 1878. (b) A negotiable instrument, dated 30th August 1878, is made payable three months after date. The instrument is at maturity on the 3rd December, 1878. (c) A promissory note or bill of exchange, dated 31st August, 1878, is made payable three months after date. The instrument is at maturity on the 3rd December, 1878.**24. Calculating maturity of bill or note payable so many days after date or sight** In calculating the date at which a promissory note or bill of exchange made payable a certain number of days after date or after sight or after a certain event is at maturity, the day of the date, or of presentment for acceptance or sight, or of protest for non-acceptance, or on which the event happens, shall be excluded.**25. When day of maturity is a holiday** When the day on which a promissory note or bill of exchange is at maturity is a public holiday, the instrument shall be deemed to be due on the next preceding business day.*Explanation* - The expression “public holiday” includes Sundays and the days declared by the Government, by notification in the official Gazette, to be public holidays.

### Chapter III: PARTIES TO NOTES, BILLS AND CHEQUES

**26. Capacity to make, etc., promissory notes, etc.** Every person capable of contracting, according to the law to which he is subject, may bind himself and be bound by the making, drawing, acceptance, indorsement, delivery and negotiation of a promissory note, bill of exchange or cheque.*Minor* Where such an instrument is made, drawn or negotiated by a minor, the making, drawing or negotiation entitles the holder to receive payment of such instrument and to enforce it against any party thereto other than the minor. Nothing herein contained shall be deemed to empower a corporation to make, indorse or accept such instruments except in cases in which, under the law for the time being in force, they are so empowered.**27. Agency** Every person capable of binding himself or of being bound, by the making, drawing, acceptance or negotiation of a negotiable instrument, may so bind himself or be bound by a duly authorised agent acting in his name. A general authority to transact business and to receive and discharge debts does not confer upon an agent the power of accepting or indorsing bills of exchange so as to bind his principal. An authority to draw bills of exchange does not of itself import an authority to indorse.**27A. Authority of partner** A partner acting in the firm name may bind the firm by the making, drawing, acceptance or negotiation of a negotiable instrument to the extent authorised by law relating to partnership for the time being in force.**28. Liability of agent signing** (1) Where a person signs a promissory note, bill of exchange or cheque without adding to his signature words indicating

that he signs it as an agent for and on behalf of a principal or in a representative character, he is personally liable thereon but the mere addition to his signature of words describing him as an agent or as filling a representative character does not exempt him from personal liability. (2) Notwithstanding anything contained in sub-section (1), any person signing a promissory note, bill of exchange or cheque for and on behalf of the principal is not liable to a person who induces him to sign upon the belief that the principal alone would be held liable.

**28A. Transferor by delivery and transferee** (1) Where the holder of a negotiable instrument payable to bearer negotiates it by delivery without indorsing it, he is called a "transferor by delivery". (2) A transferor by delivery is not liable on the instrument. (3) A transferor by delivery who negotiates a negotiable instrument thereby warrants to his immediate transferee, being a holder for consideration, that the instrument is what it purports to be, that he has a right to transfer it, and that at the time of transfer he is not aware of any defect which renders it valueless.

**29. Liability of legal representative signing** A legal representative of a deceased person who signs his name to a promissory note, bill of exchange or cheque is liable personally thereon unless he expressly limits his liability to the extent of the assets received by him as such.

**29A. Signature essential to liability** No person is liable as maker, drawer, indorser or acceptor of a promissory note, bill of exchange or cheque who has not signed it as such: Provided that where a person signs any such instrument in a trade or assumed name he is liable thereon as if he had signed it in his own name.

**29B. Forged or unauthorised signature** Subject to the provisions of this Act, where a signature on a promissory note, bill of exchange or cheque is forged or placed thereon without the authority of the person whose signature it purports to be, the forged or unauthorised signature is wholly inoperative, and no right to retain the instrument or to give a discharge therefor or to enforce payment thereof against any party thereto can be acquired through or under that signature, unless the party against whom it is sought to retain or enforce payment of the instrument is precluded from setting up the forgery or want of authority: Provided that nothing in this section shall effect the ratification of an unauthorised signature not amounting to a forgery.

**29C. Stranger signing instrument presumed to be indorser** A person placing his signature upon a negotiable instrument otherwise than as maker, drawer or acceptor is presumed to be an indorser unless he clearly indicates by appropriate words his intention to be bound in some other capacity.

**30. Liability of drawer** (1) (a) The drawer of a bill of exchange by drawing it, engages that on due presentment it shall be accepted and paid according to its tenor, and that if it be dishonoured, he will compensate the holder or any indorser who is compelled to pay it; and (b) the drawer of a cheque by drawing it, engages that in the case of dishonour by the drawee he will compensate the holder: Provided that due notice of dishonour of the bill or cheque has been given to or received by the drawer as hereinafter provided. (2) The drawee of a bill of exchange is not liable thereon until acceptance in the manner provided by this Act.

**31. Liability of drawee of cheque** The drawee of a cheque having sufficient funds of the drawer in his hands properly applicable to the payment of such cheque must pay the cheque when duly required so to do, and, in default of such payment, must compensate the drawer for any loss or damage caused by such default.

**32. Liability of maker of note and acceptor of bill** (1) In the absence of a contract to the contrary, the maker of a promissory note, by making it, and the acceptor before maturity of a bill of exchange by accepting it, engages that he will pay it according to the tenor of the note or his acceptance respectively, and in default of such payment, such maker or acceptor is bound to compensate any party to the note or bill or any loss or damage sustained by him and caused by such default. (2) The acceptor of a bill of exchange at or after maturity, by accepting it, engages to pay the amount

thereof to the holder on demand.**33. Only drawee can be acceptor except in need or for honour** No person except the drawee of a bill of exchange, or all or some of several drawees, or a person named therein as a drawee in case of need, or an acceptor for honour, can bind himself by an acceptance.**34. Acceptance by several drawees not partners** Where there are several drawees of a bill of exchange who are not partners, each of them can accept it for himself, but none of them can accept it for another without his authority.**35. Liability of indorser** In the absence of a contract to the contrary, the indorser of a negotiable instrument, by indorsing it, engages that on due presentment it shall be accepted and paid according to its tenor and that if it be dishonoured he will compensate the holder or subsequent indorser who is compelled to pay it for any loss or damage caused to him by such dishonour. Every indorser after dishonour is liable as upon an instrument payable on demand.**36. Liability of prior parties to holder in due course** Every prior party to a negotiable instrument is liable thereon to a holder in due course until the instrument is duly satisfied.**37. Maker, drawer and acceptor principals** The maker of a promissory note or cheque, the drawer of a bill of exchange until acceptance, and the acceptor are, in the absence of a contract to the contrary, respectively liable thereon as principal debtors, and the other parties thereto are liable thereon as sureties for the maker, drawer or acceptor, as the case may be.**38. Prior party a principal in respect of each subsequent party** As between the parties so liable as sureties, each prior party is, in the absence of a contract to the contrary, also liable thereon as a principal debtor in respect of each subsequent party.*Illustration* A draws a bill payable to his own order on B who accepts. A afterwards indorses the bill to C, C to D, and D to E. As between E and B, B is the principal debtor, and A, C and D are his sureties. As between E and A, A is the principal debtor and C and D are his sureties. As between E and C, C is the principal debtor and D is his surety.**38A. Liability of accommodation party and position of accommodation party** (1) An accommodation party is liable on a negotiable instrument to a holder in due course, notwithstanding that when such holder took the instrument he knew such party to be an accommodation party. (2) An accommodation party to a negotiable instrument, if he has paid the amount thereof, is entitled to recover such amount from the party accommodated.**39. Suretyship** When the holder of an accepted bill of exchange enters into any contract with the acceptor which, under section 134 or 135 of the Contract Act, 1872, would discharge the other parties, the holder may expressly reserve his right to charge the other parties, and in such case they are not discharged.**40. Discharge of indorser's liability** When the holder of a negotiable instrument, without the consent of the indorser, destroys or impairs the indorser's remedy against a prior party, the indorser is discharged from liability to the holder to the same extent as if the instrument had been paid at maturity.*Illustration* A is the holder of a bill of exchange made payable to the order of B, which contains the following indorsements in blank:- First indorsement, "B". Second indorsement, "Peter Williams." Third indorsement, "Wright & Co." Fourth indorsement, "John Rozario." This bill A puts in suit against John Rozario and strike out, without John Rozario's consent, the indorsements by Peter Williams, and Wright & Co. A is not entitled to recover anything from John Rozario.**41. Acceptor bound although indorsement forged** An acceptor of a bill of exchange already indorsed is not relieved from liability by reason that such indorsement is forged, if he knew or had reason to believe the indorsement to be forged when he accepted the bill.**42. Acceptance of bill drawn in fictitious name** An acceptor of a bill of exchange drawn in a fictitious name and payable to the drawer's order is not, by reason that such name is fictitious, relieved from liability to any holder in due course claiming under an indorsement by the same hand as the drawer's signature, and purporting to be made by the drawer.**43. Negotiable instrument made, etc.,**

**without consideration** A negotiable instrument made, drawn, accepted, indorsed or transferred without consideration, or for a consideration which fails, creates no obligation of payment between the parties to the transaction. But if any such party has transferred the instrument with or without indorsement to a holder for consideration, such holder, and every subsequent holder deriving title from him, may recover the amount due on such instrument from the transferor for consideration or any prior party thereto. *Exception I* - No party for whose accommodation a negotiable instrument has been made, drawn, accepted or indorsed can, if he have paid the amount thereof, recover thereon such amount from any person who became a party to such instrument for his accommodation. *Exception II* - No party to the instrument who has induced any other party to make, draw, accept, indorse or transfer the same to him for a consideration which he has failed to pay or perform in full shall recover thereon an amount exceeding the value of the consideration (if any) which he has actually paid or performed.

**44. Partial absence or failure of money-consideration** When the consideration for which a person signed a promissory note, bill of exchange or cheque consisted of money, and was originally absent in part or has subsequently failed in part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced. *Explanation* - The drawer of a bill of exchange stands in immediate relation with the acceptor. The maker of a promissory note, bill of exchange or cheque stands in immediate relation with the payee, and the indorser with his indorsee. Other signers may by agreement stand in immediate relation with a holder. *Illustration* A draws a bill on B for Taka 500 payable to the order of A. B accepts the Bill, but subsequently dishonours it by non-payment. A sues B on the bill. B proves that it was accepted for value as to Taka 400, and as an accommodation to the plaintiff as to the residue. A can only recover Taka 400.

**45. Partial failure of consideration not consisting of money** Where a part of the consideration for which a person signed a promissory note, bill of exchange or cheque, though not consisting of money, is ascertainable in money without collateral inquiry, and there has been a failure of that part, the sum which a holder standing in immediate relation with such signer is entitled to receive from him is proportionally reduced.

**45A. Holder's right to duplicate of lost bill** Where a bill of exchange has been lost before it is overdue, the person who was the holder of it may apply to the drawer to give him another bill of the same tenor, giving security to the drawer, if required, to indemnify him against all persons whatever in case the bill alleged to have been lost shall be found again. If the drawer on request as aforesaid refuses to give such duplicate bill, he may be compelled to do so.

#### Chapter IV: OF NEGOTIATION

**46. Delivery** The making, acceptance or indorsement of a promissory note, bill of exchange or cheque is completed by delivery, actual or constructive. As between parties standing in immediate relation, delivery to be effectual must be made by the party making, accepting or indorsing the instrument or by a person authorised by him in that behalf. As between such parties and any holder of the instrument other than a holder in due course, it may be shown that the instrument was delivered conditionally or for a special purpose only, and not for the purpose of transferring absolutely the property therein. A promissory note, bill of exchange or cheque payable to bearer is negotiable by the delivery thereof. A promissory note, bill of exchange or cheque payable to order is negotiable by the holder by indorsement and delivery thereof.

**47. Negotiation by delivery** Subject to the provisions of section 58, a promissory note, bill of exchange or cheque payable to bearer is negotiable by delivery thereof. *Exception* - A promissory note, bill of exchange or cheque delivered on condition

that it is not to take effect except in a certain event is not negotiable (except in the hands of a holder for value without notice of the condition) unless such event happens. *Illustration(s)* (a) A, the holder of a negotiable instrument payable to bearer, delivers it to B's agent to keep for B. The instrument has been negotiated. (b) A, the holder of a negotiable instrument payable to bearer, which is in the hands of A's banker, who is at the time the banker of B, directs the banker to transfer the instrument to B's credit in the banker's account with B. The banker does so, and accordingly now possesses the instrument as B's agent. The instrument has been negotiated, and B has become the holder of it. **48. Negotiation by indorsement**

Subject to the provisions of section 58, a promissory note, bill of exchange or cheque payable to order is negotiable by the holder by indorsement and delivery thereof. **49. Conversion of indorsement in blank into indorsement in full** When a negotiable instrument has been indorsed in blank, any holder may, without signing his own name, convert the blank

indorsement into an indorsement in full by writing above the indorser's signature a direction to pay the amount to or to the order of himself or some other person; and the holder does not thereby incur the responsibility of an indorser. **50. Effect of indorsement** (1) Subject to the provisions of this Act relating to restrictive, conditional and qualified indorsement, the indorsement of a negotiable instrument followed by delivery transfers to the indorsee the property therein with the right of further negotiation. (2) An indorsement is restrictive which either-

(a) restricts or excludes the right to further negotiate the instrument; or (b) constitutes the indorsee an agent of the indorser to indorse the instrument or to receive its contents for the indorser or for some other specified person: Provided that the mere absence of words implying right to negotiate does not make the indorsement restrictive. *Illustration(s)* B signs the following indorsements on different negotiable instruments payable to bearer:- (a) "Pay the contents to C only." (b) "Pay C for my use." (c) "Pay C or order for the account of B." (d) "The within must be credited to C." These indorsements exclude the right of further negotiation by C. (e) "Pay C." (f) "Pay C value in account with the Oriental Bank." (g) "Pay the contents to C, being part of the consideration in a certain deed of assignment executed by C to the indorser and others." These indorsements do not exclude the right of further negotiation by C. **51. Who may negotiate** Every sole maker, drawer, payee or indorsee, or all of several joint makers, drawers, payees or indorsees, of a negotiable instrument may, if the negotiability of such instrument has not been restricted or excluded as mentioned in section 50, indorse and negotiate the same. *Explanation* - Nothing in this section enables a maker or drawer to indorse or negotiate an instrument, unless he is in lawful possession or is holder thereof; or enables a payee or indorsee to indorse or negotiate an instrument, unless he is holder thereof. *Illustration* A bill is drawn payable to A or order. A indorses it to B, the indorsement not containing the words "or order" or any equivalent words. B may negotiate the instrument. **52. Indorser who excludes his own liability or makes it conditional** The indorser of a negotiable instrument may, by express words in the indorsement, exclude his own liability thereon, or make such liability or the right of the indorsee to receive the amount due thereon depend upon the happening of a specified event, although such event may never happen. Where an indorser so excludes his liability and afterwards becomes the holder of the instrument, all intermediate indorsers are liable to him. Where the right of an indorsee to receive the amount due on the negotiable instrument is made dependent in the aforesaid manner the condition is valid only as between the indorser and the indorsee. Where the indorsement of a negotiable instrument purports to be conditional, the payer may disregard the condition, and payment to the indorsee is valid whether the condition has been fulfilled or not. *Illustration(s)* (a) The indorser of a negotiable instrument signs his name adding the words-"Without recourse". Upon this indorsement he incurs no liability. (b) A is

the payee and holder of a negotiable instrument. Excluding personal liability by an indorsement "without recourse," he transfers the instrument to B, and B indorses it to C, who indorses it to A. A is not only reinstated in his former rights, but has the rights of an indorsee against B and C.

**53. Holder claiming through holder in due course** (1) A holder who derives his title through a holder in due course, and who is not himself a party to any fraud or illegality affecting the negotiable instrument, has all the rights therein of that holder in due course as regards the acceptor and all parties to the instrument prior to that holder. (2) Where the title of the holder is defective,- (a) if he negotiates the instrument to a holder in due course, that holder obtains a good and complete title to the instrument; and (b) if he obtains payment of the instrument, the person who pays him in due course gets a valid discharge for the instrument.

**53A. Rights of holder in due course** A holder in due course holds the negotiable instrument free from any defect of title of prior parties, and free from defences available to prior parties among themselves, and may enforce payment of the instrument for the full amount thereof against all parties liable thereon.

**54. Instrument indorsed in blank** Subject to the provisions hereinafter contained as to crossed cheques, a negotiable instrument indorsed in blank is payable to the bearer thereof even although originally payable to order.

**55. Conversion of indorsement in blank into indorsement in full** If a negotiable instrument, after having been indorsed in blank, is indorsed in full, the amount of it cannot be claimed from the indorser in full, except by the person to whom it has been indorsed in full, or by one who derives title through such person.

**56. Requisites of indorsement** (1) Negotiation by indorsement must be of the entire instrument. (2) An indorsement which purports to transfer to the indorsee only a part of the amount payable, or which purports to transfer the instrument to two or more indorseees severally, is not valid as a negotiation of the instrument; but where such amount has been paid in part, a note to that effect may be indorsed on the instrument, which may then be indorsed for the balance.

**57. Legal representative cannot by delivery only negotiate instrument indorsed by deceased** The legal representative of a deceased person cannot negotiate by delivery only a promissory note, bill of exchange or cheque payable to order and indorsed by the deceased but not delivered.

**57A. Negotiation of instrument of party already liable thereon** Where a negotiable instrument is negotiated back before maturity to the maker or drawer or a prior indorser or to the acceptor, such party may, subject to the provisions of this Act, re-issue and further negotiate the instrument, but he is not entitled to enforce payment of the instrument against any intervening party to whom he was previously liable.

**57B. Rights of holder** A holder may receive payment in due course under a negotiable instrument and further negotiate it in the manner provided by this Act; he may also sue on such instrument in his own name.

**58. Defective title** When a promissory note, bill of exchange or cheque has been lost or has been obtained from any maker, drawer, acceptor or holder thereof by means of an offence or fraud, or for an unlawful consideration, neither the person who finds or so obtains the instrument nor any possessor or indorsee who claims through such person is entitled to receive the amount due thereon from such maker, drawer, acceptor or holder, unless such possessor or indorsee is, or some person through whom he claims was, a holder thereof in due course.

**59. Instrument acquired after dishonour or when overdue** The holder of a negotiable instrument, who has acquired it after dishonour, whether by non-acceptance or non-payment, with notice thereof, or after maturity, has only, as against the other parties, the rights thereon of his transferor and is subject to the equities to which the transferor was subject at the time of acquisition by such holder.

**Accommodation note or bill** Provided that any person who, in good faith and for consideration, becomes the holder, after maturity, of a promissory note or bill of exchange made, drawn or accepted

without consideration, for the purpose of enabling some party thereto to raise money thereon, may recover the amount of the note or bill from any prior party. *Illustration* The acceptor of a bill of exchange, when he accepted it, deposited with the drawer certain goods as a collateral security for the payment of the bill, with power to the drawer to sell the goods and apply the proceeds in discharge of the bill if it were not paid at maturity. The bill not having been paid at maturity, the drawer sold the goods and retained the proceeds, but indorsed the bill to A. A's title is subject to the same objection as the drawer's title. **60. Instrument negotiable till payment or satisfaction** A negotiable instrument may be negotiated (except by the maker, drawee or acceptor after maturity) until payment or satisfaction thereof by the maker, drawee or acceptor at or after maturity, but not after such payment or satisfaction.

## Chapter V: OF PRESENTMENT

**61. Presentment for acceptance** A bill of exchange payable after sight must, if no time or place is specified therein for presentment, be presented to the drawee thereof for acceptance, if he can, after reasonable search, be found, by a person entitled to demand acceptance, within a reasonable time after it is drawn, and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default. If the drawee cannot, after reasonable search, be found, the bill is dishonoured. If the bill is directed to the drawee at a particular place, it must be presented at that place; and if at the due date for presentment he cannot, after reasonable search, be found there, the bill is dishonoured. Where authorised by agreement or usage, a presentment through the post office by means of a registered letter is sufficient. **62. Presentment of promissory note for sight** A promissory note, payable at a certain period after sight, must be presented to the maker thereof for sight (if he can, after reasonable search, be found) by a person entitled to demand payment, within a reasonable time after it is made and in business hours on a business day. In default of such presentment, no party thereto is liable thereon to the person making such default. **63. Drawee's time for deliberation** The holder must, if so required by the drawee of a bill of exchange presented to him for acceptance, allow the drawee forty-eight hours (exclusive of public holidays) to consider whether he will accept it. **64. Presentment for payment** Subject to the provisions of section 76, promissory notes, bills of exchange and cheques must be presented for payment to the maker, acceptor or drawee thereof respectively, by or on behalf of the holder as hereinafter provided. In default of such presentment, the other parties thereto are not liable thereon to such holder. *Exception* - Where a promissory note is payable on demand and is not payable at a specified place, no presentment is necessary in order to charge the maker thereof nor is presentment necessary to charge the acceptor of a bill of exchange. The provisions of this section are without prejudice to the provisions relating to presentment or acceptance in the case of a bill of exchange. *Explanation* - Where there are several persons, not being partners liable on the negotiable instrument, as makers, acceptors or drawees, as the case may be, and no place of payment is specified, presentment must be made to them all. **65. Hours for presentment** Presentment for payment must be made during the usual hours of business, and, if at a banker's within banking hours. **66. Presentment for payment of instrument payable after date or sight** A promissory note or bill of exchange, made payable at a specified period after date or sight thereof, must be presented for payment at maturity. **67. Presentment for payment of promissory note payable by instalments** A Promissory note payable by instalments must be presented for payment on the third day after the date fixed for payment of each instalment; and non-payment on such presentment has the same effect as

non-payment of a note at maturity.

**68. Presentment for payment of instrument payable at specified place and not elsewhere** A promissory note, bill of exchange or cheque made, drawn or accepted payable at a specified place and not elsewhere must, in order to charge any party thereto, be presented for payment at that place.

**69. Instrument payable at specified place** A promissory note or bill of exchange made, drawn or accepted payable at a specified place must, in order to charge the maker or drawer thereof, be presented for payment at that place.

**70. Presentment where no exclusive place specified** A promissory note or bill of exchange, not made payable as mentioned in sections 68 and 69, must be presented for payment at the address of the maker, acceptor or drawee given in the instrument, and if no such address is given at the place of business if known, or at the ordinary residence (if known), of the maker, drawee or acceptor thereof, as the case may be.

**71. Presentment when maker, etc., has no known place of business or residence** If the maker, drawee or acceptor of a negotiable instrument has no known place of business or residence, and no place is specified in the instrument for presentment for acceptance or payment, such presentment may be made to him in person wherever he can be found.

*Explanation* - In this section and sections 68 and 69, "specified place" means a place sufficiently described so as to enable the person presenting the instrument to locate it.

**71A. What constitutes valid presentment and mode of presentment** (1) To constitute a valid presentment it shall be sufficient if instead of the original negotiable instrument a copy thereof certified to be true by the holder is delivered to the person liable thereon, either personally or by registered post or by other effective means. (2) If, after such delivery, the person liable to pay so demands, the holder shall allow him to inspect the original negotiable instrument during the hours of business of the holder, and if the holder fails to do so within a reasonable time, the presentment shall be deemed to be invalid.

**72. Presentment of cheque to charge drawer** Subject to the provisions of section 84, a cheque must, in order to charge the drawer, be presented at the bank upon which it is drawn before the relation between the drawer and his banker has been altered to the prejudice of the drawer.

**73. Presentment of cheque to charge any other person** A cheque must, in order to charge any person except the drawer, be presented within a reasonable time after delivery thereof by such person.

**74. Presentment of instrument payable on demand** Subject to the provisions of section 31, a negotiable instrument payable on demand must be presented for payment within a reasonable time after it is received by the holder.

**75. Presentment by or to agent, representative of deceased, or assignee of insolvent** Presentment for acceptance or payment may be made to the duly authorised agent of the drawee, maker or acceptor, as the case may be, or, where the drawee, maker or acceptor has died, to his legal representative, or, where he has been declared an insolvent, to his assignee.

**75A. Excuse for delay in presentment for acceptance or payment** Delay in presentment for acceptance or payment is excused if the delay is caused by circumstances beyond the control of the holder, and not imputable to his default, misconduct or negligence. When the cause of delay ceases to operate, presentment must be made within a reasonable time.

**76. When presentment unnecessary** No presentment for payment is necessary, and the instrument shall be deemed to be dishonoured at the due date for presentment, in any of the following cases:- (a) if the maker, drawee or acceptor intentionally prevents the presentment of the instrument, or, if the instrument being payable at his place of business, he closes such place on a business day during the usual business hours, or, if the instrument being payable at some other specified place, neither he nor any person authorised to pay it attends at such place during the usual business hours, or if the instrument not being payable at any specified place, he cannot after due search be found; (b) as against any party sought to be charged



therewith, if he has engaged to pay notwithstanding non-presentment; (c) as against any party if, after maturity, with knowledge that the instrument has not been presented- he makes a part payment on account of the amount due on the instrument, or promises to pay the amount due thereon in whole or in part, or otherwise waives his right to take advantage of any default in presentment for payment; (d) as against the drawer, if the drawer could not suffer damage from the want of such presentment; (e) where the drawee is a fictitious person; (f) as regards an indorser, where the negotiable instrument was made, drawn or accepted for the accommodation of that indorser and he had reason to expect that the instrument would not be paid if presented; and (g) where, after the exercise of reasonable diligence, presentment as required by this Act cannot be effected.*Explanation* - The fact that holder has reason to believe that the negotiable instrument will, on presentment, be dishonoured does not dispense with the necessity for presentment.**77. Liability of banker for negligently dealing with bill presented for payment** When a bill of exchange accepted payable at a specified bank has been duly presented there for payment and dishonoured, if the banker so negligently or improperly keeps, deals with or delivers back such bill as to cause loss to the holder, he must compensate the holder for such loss.

## Chapter VI: OF PAYMENT AND INTEREST

**78. To whom payment should be made** Subject to the provisions of section 82, clause (c), payment of the amount due on a promissory note, bill of exchange or cheque must, in order to discharge the maker or acceptor, be made to the holder of the instrument.**79. Interest when rate specified or not specified** Subject to the provisions of any law for the time being in force relating to the relief of debtors, and without prejudice to the provisions of section 34 of the Code of Civil Procedure, 1908, (a) when interest at a specified rate is expressly made payable on a promissory note or bill of exchange and no date is fixed from which interest is to be paid, interest shall be calculated at the rate specified, on the amount of the principal money due thereon, from the date of the note, or, in the case of a bill, from the date on which the amount becomes payable, until tender or realisation of such amount, or until the date of the institution of a suit to recover such amount; (b) when a promissory note or bill of exchange is silent as regards interest or does not specify the rate of interest, interest on the amount of the principal money due thereon shall, notwithstanding any collateral agreement relating to interest between any parties to the instrument, be allowed and calculated at the rate of six per centum per annum from the date of the note, or, in the case of a bill, from the date on which the amount becomes payable, until tender or realisation of the amount due thereon, or until the date of the institution of a suit to recover such amount.**80. Interest when no rate specified** When no rate of interest is specified in the instrument, interest on the amount due thereon shall, notwithstanding any agreement relating to interest between any parties to the instrument, be calculated at the rate of six per centum per annum from the date at which the same ought to have been paid by the party charged until tender or realisation of the amount due thereon, or until such date after the institution of a suit to recover such amount as the Court directs.*Explanation* - When the party charged is the indorser of an instrument dishonoured by non-payment, he is liable to pay interest only from the time that he receives notice of the dishonour.**81. Delivery of instrument on payment, or indemnity in case of loss** Any person liable to pay, and called upon by the holder thereof to pay, the amount due on a promissory note, bill of exchange or cheque is before payment entitled to have it shown, and is on payment entitled to have it delivered up, to him, or, if the instrument is lost or cannot be produced, to be indemnified against any further claim thereon against him.

## Chapter VII: OF DISCHARGE FROM LIABILITY ON NOTES, BILLS AND CHEQUES

**82. Discharge from liability-** The maker, acceptor or indorser respectively of a negotiable instrument is discharged from liability thereon-(a) **by cancellation** (a) to a holder thereof who cancels such acceptor's or indorser's name with intent to discharge him, and to all parties claiming under such holder;(b) **by release** (b) to a holder thereof who otherwise discharges such maker, acceptor or indorser, and to all parties deriving title under such holder after notice of such discharge;(c) **by payment** (c) to all parties thereto, if the instrument is payable to bearer, or has been indorsed in blank, and such maker, acceptor or indorser makes payment in due course of the amount due thereon.

**83. Discharge by allowing drawee more than forty-eight hours to accept** If the holder of a bill of exchange allows the drawee more than forty-eight hours, exclusive of public holidays, to consider whether he will accept the same, all previous parties not consenting to such allowance are thereby discharged from liability to such holder.

**84. When cheque not duly presented and drawer damaged thereby** (1) Where a cheque is not presented for payment within a reasonable time of its issue, and the drawer or person on whose account it is drawn had the right, at the time when presentment ought to have been made, as between himself and the banker, to have the cheque paid and suffers actual damage through the delay, he is discharged to the extent of such damage, that is to say, to the extent to which such drawer or person is a creditor of the banker to a larger amount than he would have been if such cheque had been paid. (2) In determining what is a reasonable time, regard shall be had to the nature of the instrument, the usage of trade and of bankers, and the facts of the particular case. (3) The holder of the cheque as to which such drawer or person is so discharged shall be a creditor, in lieu of such drawer or person, of such banker to the extent of such discharge and entitled to recover the amount from him.

*Illustration(s)* (a) A draws a cheque for Taka 1,000, and when the cheque ought to be presented, has funds at the bank to meet it. The bank fails before the cheque is presented. The drawer is discharged, but the holder can prove against the bank for the amount of the cheque. (b) A draws a cheque at Dinajpur on a bank in Chittagong. The bank fails before the cheque could be presented in ordinary course. A is on discharged, for he has not suffered actual damage through any delay in presenting the cheque.

**85. Cheque payable to order** (1) Where a cheque payable to order purports to be indorsed by or on behalf of the payee, the drawee is discharged by payment in due course. (2) Where a cheque is originally expressed to be payable to bearer, the drawee is discharged by payment in due course to the bearer thereof, notwithstanding any indorsement whether in full or in blank appearing thereon, and notwithstanding that any such indorsement purports to restrict or exclude further negotiation.

**85A. Drafts drawn by one branch of a bank on another payable to order** Where any draft, that is, an order to pay money, drawn by one office of a bank upon another office of the same bank for a sum of money payable to order on demand, purports to be indorsed by or on behalf of the payee, the bank is discharged by payment in due course.

**86. Parties not consenting discharged by qualified or limited acceptance** If the holder of a bill of exchange acquiesces in a qualified acceptance, or one limited to part of the sum mentioned in the bill, or which substitutes a different place or time for payment, or which, where the drawees are not partners, is not signed by all the drawees, all previous parties whose consent is not obtained to such acceptance are discharged as against the holder and those claiming under him, unless on notice given by the holder they assent to such acceptance.

*Explanation* -An acceptance is qualified - (a) where it is conditional, declaring the payment to be dependent on the happening of an event therein stated; (b) where it undertakes the payment of part

only of the sum ordered to be paid; (c) where, no place of payment being specified on the order it undertakes the payment at a specified place, and not otherwise or elsewhere; or where, a place of payment being specified in the order, it undertakes the payment at some other place and not otherwise or elsewhere; (d) where it undertakes the payment at a time other than that at which under the order it would be legally due.

**87. Effect of material alteration** Any material alteration of a negotiable instrument renders the same void as against any one who is a party thereto at the time of making such alteration and does not consent thereto, unless it was made in order to carry out the common intention of the original parties; *Alteration by indorsee* and any such alteration, if made by an indorsee, discharges his indorser from all liability to him in respect of the consideration thereof. The provisions of this section are subject to those of sections 20, 49, 86 and 125.

**88. Acceptor or indorser bound notwithstanding previous alteration** An acceptor or indorser of a negotiable instrument is bound by his acceptance or indorsement notwithstanding any previous alteration of the instrument.

**89. Payment of instrument on which alteration is not apparent** Where a promissory note, bill of exchange or cheque has been materially altered but does not appear to have been so altered, or where a cheque is presented for payment which does not at the time of presentation appear to be crossed or to have had a crossing which has been obliterated, payment thereof by a person or banker liable to pay, and paying the same according to the apparent tenor thereof at the time of payment and otherwise in due course, shall discharge such person or banker from all liability thereon; and such payment shall not be questioned by reason of the instrument having been altered or the cheque crossed.

**90. Extinguishment of rights of action on bill in acceptor's hands** (1) The maker, drawer, acceptor or indorser of a negotiable instrument is discharged from liability thereon when the person liable thereon as principal debtor becomes the holder thereof at or after its maturity. (2) When the holder of an accepted bill of exchange enters into any contract with the acceptor of the nature referred to in section 39, the other parties are discharged, unless the holder has expressly reserved his right to charge them.

## Chapter VIII: OF NOTICE OF DISHONOUR

**91. Dishonour by non-acceptance** A bill of exchange is said to be dishonoured by non-acceptance when the drawee, or one of several drawees not being partners, makes default in acceptance upon being duly required to accept the bill, or where presentment is excused and the bill is not accepted. Where the drawee is incompetent to contract, or the acceptance is qualified, the bill may be treated as dishonoured.

**92. Dishonour by non-payment** A promissory note, bill of exchange or cheque is said to be dishonoured by non-payment when the maker of the note, acceptor of the bill or drawee of the cheque makes default in payment upon being duly required to pay the same.

**93. By and to whom notice should be given** When a promissory note, bill of exchange or cheque is dishonoured by non-acceptance or non-payment, the holder thereof, or some party thereto who remains liable thereon, must give notice that the instrument has been so dishonoured to all other parties whom the holder seeks to make severally liable thereon, and to some one of several parties whom he seeks to make jointly liable thereon. When a bill of exchange is dishonoured by non-acceptance the drawer or any indorser to whom such notice is not given is discharged; but the rights of a holder in due course subsequent to the omission to give notice shall not be prejudiced by that omission. When a bill of exchange is dishonoured by non-acceptance and due notice of dishonour is given, it shall not be necessary to give notice of a subsequent dishonour by non-payment, unless the bill shall, in the meantime, have been accepted. Nothing in this section renders it necessary to give notice to the maker of the

dishonoured promissory note or the drawee or acceptor of the dishonoured bill of exchange or cheque.

**94. Mode in which notice may be given** Notice of dishonour may be given to a duly authorised agent of the person to whom it is required to be given, or, where he has died, to his legal representative, or, where he has been declared an insolvent, to his assignee; may be oral or written; may, if written, be sent by post; and may be in any form; but it must inform the party to whom it is given, either in express terms or by reasonable intendment, that the instrument has been dishonoured, and in what way, and that he will be held liable thereon; and it must be given within a reasonable time after dishonour, at the place of business or (in case such party has no place of business) at the residence of the party for whom it is intended. If the notice is duly directed and sent by post and miscarries, such miscarriage does not render the notice invalid.

**95. Party receiving must transmit notice of dishonour** Any party receiving notice of dishonour must, in order to render any prior party liable to himself, give notice of dishonour to such party within a reasonable time, unless such party otherwise receives due notice as provided by section 93.

**96. Agent for presentment** When the instrument is deposited with an agent for presentment, the agent entitled to the same time to give notice to his principal as if he were the holder giving notice of dishonour, and the principal is entitled to a further like period to give notice of dishonour.

**97. When party to whom notice given is dead** When the party to whom notice of dishonour is despatched is dead, but the party despatching the notice is ignorant of his death, the notice is sufficient.

**98. When notice of dishonour is unnecessary** No notice of dishonour is necessary- (a) when it is dispensed with by the party entitled thereto; (b) in order to charge the drawer when he has countermanded payment; (c) when the party charged could not suffer damage for want of notice; (d) when the party entitled to notice cannot after due search be found; or the party bound to give notice is, for any other reason, unable without any fault of his own to give it; (e) to charge the drawers when the acceptor is also a drawer; (f) in the case of a promissory note which is not negotiable; (g) when the party entitled to notice, knowing the facts, promises unconditionally to pay the amount due on the instrument.

## Chapter IX: OF NOTING AND PROTEST

**99. Noting** When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may cause such dishonour to be noted by a notary public upon the instrument, or upon a paper attached thereto, or partly upon each. Such note must be made within a reasonable time after dishonour, and must specify the date of dishonour, the reason, if any, assigned for such dishonour, or, if the instrument has not been expressly dishonoured, the reason why the holder treats it as dishonoured, and the notary's charges.

**100. Protest** When a promissory note or bill of exchange has been dishonoured by non-acceptance or non-payment, the holder may, within a reasonable time, cause such dishonour to be noted and certified by a notary public. Such certificate is called a protest.

*Protest for better security* When the acceptor of a bill of exchange has become insolvent, or his credit has been publicly impeached, before the maturity of the bill, the holder may, within a reasonable time, cause a notary public to demand better security of the acceptor, and on its being refused may, within a reasonable time, cause such facts to be noted and certified as aforesaid. Such certificate is called a protest for better security.

**101. Contents of protest** A protest under section 100 must contain- (a) either the instrument itself, or a literal transcript of the instrument and of everything written or printed thereupon; (b) the name of the person for whom and against whom the instrument has been protested; (c) a statement that payment or acceptance, or better security, as the case may be, has been demanded of such person by the notary public; the terms of his answer, if any, or a

statement that he gave no answer or that he could not be found; (d) when the note or bill has been dishonoured, the place and time of dishonour, and, when better security has been refused, the place and time of refusal; (e) the subscription of the notary public making the protest; (f) in the event of an acceptance for honour or of a payment for honour, the name of the person by whom, of the person for whom, and the manner in which, such acceptance or payment was offered and effected. A notary public may make the demand mentioned in clause (c) of this section either in person or by his clerk or, where authorised by agreement or usage, by registered letter.

**102. Notice of protest** When a promissory note or bill of exchange is required by law to be protested, notice of such protest must be given instead of notice of dishonour, in the same manner and subject to the same conditions; but the notice may be given by the notary public who makes the protest.

**103. Protest for non-payment after dishonour by non-acceptance** All bills of exchange drawn payable at some other place than the place mentioned as the residence of the drawee, and which are dishonoured by non-acceptance, may, without further presentment to the drawee, be protested for non-payment in the place specified for payment, unless paid before or at maturity.

**104. Protest of foreign bills** Foreign bills of exchange must be protested for dishonour when such protest is required by the law of the place where they are drawn.

**104A. When noting equivalent to protest** For the purposes of this Act, where a bill or note is required to be protested within a specified time or before some further proceeding is taken, it is sufficient that the bill has been noted for protest before the expiration of the specified time or the taking of the proceeding; and the formal protest may be extended at any time thereafter as of the date of the noting.

#### Chapter X: OF REASONABLE TIME

**105. Reasonable time** In determining what is a reasonable time for presentment for acceptance or payment, for giving notice of dishonour and for noting, regard shall be had to the nature of the instrument and the usual course of dealing with respect to similar instruments, and, in calculating such time, public holidays shall be excluded.

**Reasonable time of giving notice of dishonour** If the holder and the party to whom notice of dishonour is given carry on business or live (as the case may be) in different places, such notice is given within a reasonable time if it is despatched by the next post or on the day next after the day of dishonour. If the said parties carry on business or live in the same place, such notice is given within a reasonable time if it is despatched in time to reach its destination on the day next after the day of dishonour.

**107. Reasonable time for transmitting such notice** A party receiving notice of dishonour, who seeks to enforce his right against a prior party, transmits the notice within a reasonable time if he transmits it within the same time after its receipt as he would have had to give notice if he had been the holder.

#### Chapter XI: OF ACCEPTANCE AND PAYMENT FOR HONOUR AND REFERENCE IN CASE OF NEED

**108. Acceptance for honour** When a bill of exchange has been noted or protested for non-acceptance or for better security, any person not being a party already liable thereon may, with the consent of the holder, by writing on the bill, accept the same for the honour of any party thereto.

**109. How acceptance for honour must be made** A person desiring to accept for honour must, by writing on the bill under his hand, declare that he accepts under protest the protested bill for the honour of the drawer or of a particular indorser whom he

names, or generally for honour.**110. Acceptance not specifying for whose honour it is made** Where the acceptance does not express for whose honour it is made, it shall be deemed to be made for the honour of the drawer.**111. Liability of acceptor for honour** An acceptor for honour binds himself to all parties subsequent to the party for whose honour he accepts to pay the amount of the bill if the drawee do not: and such party and all prior parties are liable in their respective capacities to compensate the acceptor for honour for all loss or damage sustained by him in consequence of such acceptance. But an acceptor for honour is not liable to the holder of the bill unless it is presented, or (in case the address given by such acceptor on the bill is a place other than the place where the bill is made payable) forwarded for presentment, not later than the day next after the day of its maturity.**112. When acceptor for honour may be charged** An acceptor for honour cannot be charged unless the bill has at its maturity been presented to the drawee for payment, and has been dishonoured by him, and noted or protested for such dishonour.**113. Payment for honour** When a bill of exchange has been noted or protested for non-payment, any person may pay the same for the honour of any party liable to pay the same, provided that the person so paying or his agent in that behalf has previously declared before a notary public the party for whose honour he pays, and that such declaration has been recorded by such notary public.**114. Right of payer for honour** Any person so paying is entitled to all the rights, in respect of the bill, of the holder at the time of such payment, and may recover from the party for whose honour he pays all sums so paid, with interest thereon and with all expenses properly incurred in making such payment.**115. Drawee in case of need** Where a drawee in case of need is named in a bill of exchange, or in any indorsement thereon, the bill is not dishonoured until it has been dishonoured by such drawee.**116. Acceptance and payment without protest** A drawee in case of need may accept and pay the bill of exchange without previous protest.

## Chapter XII: OF COMPENSATION

**117. Rules as to compensation** The compensation payable in case of dishonour of a promissory note, bill of exchange or cheque, by any party liable to the holder or any indorsee, shall be determined by the following rules:- (a) the holder is entitled to the amount due upon the instrument, together with the expenses properly incurred in presenting, noting and protesting it; (b) when the person charged resides at a place different from that at which the instrument was payable, the holder is entitled to receive such sum at the current rate of exchange between the two places; (c) an indorser who, being liable, has paid the amount due on the same is entitled to the amount so paid with interest at six per centum per annum from the date of payment until tender or realisation thereof, together with all expenses caused by the dishonour and payment; (d) when the person charged and such indorser reside at different places, the indorser is entitled to receive such sum at the current rate of exchange between the two places; (e) the party entitled to compensation may draw a bill upon the party liable to compensate him, payable at sight or on demand, for the amount due to him, together with all expenses properly incurred by him. Such bill must be accompanied by the instrument dishonoured and the protest thereof (if any). If such bill is dishonoured, the party dishonouring the same is liable to make compensation thereof in the same manner as in the case of the original bill.

## Chapter XIII: SPECIAL RULES OF EVIDENCE

**118. Presumptions as to negotiable instruments-** Until the contrary is proved, the following presumptions shall be made: (a) that every negotiable instrument was made or drawn for consideration, and that every such instrument, when it has been accepted, indorsed, negotiated or transferred, was accepted, indorsed, negotiated or transferred for consideration; (b) that every negotiable instrument bearing a date was made or drawn on such date; (c) that every accepted bill of exchange was accepted within a reasonable time after its date and before its maturity; (d) that every transfer of a negotiable instrument was made before its maturity; (e) that the indorsements appearing upon a negotiable instrument were made in the order in which they appear thereon; (f) that a lost promissory note, bill of exchange or cheque was duly stamped; (g) that the holder of a negotiable instrument is a holder in due course: provided that, where the instrument has been obtained from its lawful owner, or from any person in lawful custody thereof, by means of an offence or fraud, or has been obtained from the maker or acceptor thereof by means of an offence or fraud, or for unlawful consideration, the burden of proving that the holder is a holder in due course lies upon him.

**119. Presumption on proof of protest** In a suit upon an instrument which has been dishonoured, the Court shall, on proof of the protest, presume the fact of dishonour, unless and until such fact is disproved.

**120. Estoppel against denying original validity of instrument** No maker of a promissory note, and no drawer of a bill of exchange or cheque, and no acceptor of a bill of exchange for the honour of the drawer, shall, in a suit thereon by a holder in due course, be permitted to deny the validity of the instrument as originally made or drawn.

**121. Estoppel against denying capacity of payee to indorse** No maker of a promissory note and no acceptor of a bill of exchange payable to order shall, in a suit thereon by a holder in due course, be permitted to deny the payee's capacity, at the date of the note or bill, to indorse the same.

**122. Estoppel against denying signature or capacity of prior party** No indorser of a negotiable instrument shall, in a suit thereon by a subsequent holder, be permitted to deny the signature or capacity to contract of any prior party to the instrument.

## Chapter XIV: SPECIAL PROVISIONS RELATING TO CHEQUES

**122A. Revocation of Banker's authority** The duty and authority of a banker to pay a cheque drawn on him by his customer are determined by- (1) countermand of payment; (2) notice of the customer's death; (3) notice of adjudication of the customer as an insolvent.

**123. Cheque crossed generally** Where a cheque bears across its face an addition of the words "and company" or any abbreviation thereof, between two parallel transverse lines, or of two parallel transverse lines simply, either with or without the words "not negotiable", that addition shall be deemed a crossing and the cheque shall be deemed to be crossed generally.

**123A. Cheque crossed "account- payee"** (1) Where a cheque crossed generally bears across its face an addition of the words "account payee" between the two parallel transverse lines constituting the general crossing, the cheque, besides being crossed generally, is said to be crossed "account payee". (2) When a cheque is crossed "account payee"- (a) it shall cease to be negotiable; and (b) it shall be the duty of the banker collecting payment of the cheque to credit the proceeds thereof only to the account of the payee named in the cheque.

**124. Cheque crossed specially** Where a cheque bears across its face an addition of the name of a banker, either with or without the words "not negotiable", that addition shall be deemed a crossing, and the cheque shall be deemed to be crossed specially, and to be crossed to that banker.

**125. Crossing after issue** Where a cheque is

uncrossed, the holder may cross it generally or specially. Where a cheque is crossed generally, the holder may cross it specially. Where a cheque is crossed generally or specially, the holder may add the words "not negotiable". Where a cheque is crossed specially, the banker to whom it is crossed may again cross it specially to another banker, his agent, for collection. When an uncrossed cheque, or a cheque crossed generally, is sent to a banker for collection, he may cross it specially to himself.

**125A. Crossing a material part of a cheque** A crossing authorised by this Act is a material part of the cheque; it shall not be lawful for any person to obliterate, or, except as authorised by this Act, to add to or alter, the crossing.

**126. Payment of cheque crossed generally** Where a cheque is crossed generally, the banker on whom it is drawn shall not pay it otherwise than to a banker.

*Payment of cheque crossed specially* Where a cheque is crossed specially, the banker on whom it is drawn shall not pay it otherwise than to the banker to whom it is crossed, or his agent for collection.

**127. Payment of cheque crossed specially more than once.** Where a cheque is crossed specially to more than one banker, except when crossed to an agent for the purpose of collection, the banker on whom it is drawn shall refuse payment thereof.

**128. Payment in due course of crossed cheque** 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 (in case such cheque has come to the hands of the payee) the drawer thereof, shall respectively be entitled to the same rights, and be placed in the same position in all respects, as they would respectively be entitled to and placed in if the amount of the cheque had been paid to and received by the true owner thereof.

**129. Payment of crossed cheque out of due course** Any banker paying a cheque crossed generally otherwise than to a banker, or a cheque crossed specially otherwise than to the banker to whom the same is crossed, or his agent for collection, being a banker, shall be 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, added to or altered otherwise than as authorised by this Act, 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 authorised by this Act, 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.

**130. Cheque bearing "not negotiable"** A person taking a cheque crossed generally or specially, bearing in either case the words "not negotiable," 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.

**131. Non-liability of banker receiving payment of cheque** Subject to the provisions of this Act relating to cheques crossed "account payee", 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.

*Explanation* - 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.

**131A. Application of Chapter to drafts** The provisions of this Chapter shall apply to any draft, as defined in section 85A, as if the draft were a cheque.

**131B. Protection to banker crediting cheque crossed**



**“account- payee”** Where a cheque is delivered for collection to a banker which does not at the time of such delivery appear to be crossed “account payee” or to have had a crossing “account payee” which has been obliterated or altered, the banker, in good faith and without negligence collecting payment of the cheque and crediting the proceeds thereof to a customer, shall not incur any liability by reason of the cheque having been crossed “account payee”, or of such crossing having been obliterated or altered, and of the proceeds of the cheque having been credited to a person who is not the payee thereof.**131C. Cheque not operating as assignment of funds** A cheque, of itself, does not operate as an assignment of any part of the funds to the credit of the drawer with the banker.

## Chapter XV: SPECIAL PROVISIONS RELATING TO BILLS OF EXCHANGE

**131D. Several drawees** A bill of exchange may be addressed to two or more drawees, whether they are partners or not; but an order addressed to two drawees in the alternative, or to two or more drawees in succession, is not a bill of exchange.**131E. In whose favour a bill may be drawn** A bill of exchange may be drawn payable to, or to the order of, the drawer; or it may be drawn payable to, or to the order of, the drawee.**131F. When presentment for acceptance is necessary** A bill of exchange, in order to fix the acceptor with liability, must be presented for acceptance before it is presented for payment.**131G. When presentment excused** Presentment for acceptance is excused, and a bill of exchange may be treated as dishonoured by non-acceptance- (a) where the drawee is dead or is insolvent or is a fictitious person or a person not having capacity to contract by bill of exchange; (b) where, at the due date for presentment, the drawee cannot, after reasonable search, be found at the place at which the bill is to be presented; (c) where, after the exercise of reasonable diligence such, presentment cannot be effected; (d) where, although the presentment has been irregular, acceptance has been refused on some other ground.**131H. Holder’s right of recourse against drawn and indorsers** Subject to the provisions of this Act, when a bill of exchange is dishonoured by non-acceptance, an immediate right of recourse against the drawer and indorsers accrues, to the holder, and no presentment for payment is necessary.**131-I. Holder may refuse qualified acceptance** The holder of a bill of exchange may refuse to take a qualified acceptance, and if he does not obtain an unqualified acceptance, may treat the bill as dishonoured by non-acceptance.**132. Set of bills** Bills of exchange may be drawn in parts, each part being numbered and containing a provision that it shall continue payable only so long as the others remain unpaid. All the parts together make a set; but the whole set constitutes only one bill, and is extinguished when one of the parts, if a separate bill, would be extinguished.  
*Exception* .-When a person accepts or indorses different parts of the bill in favour of different persons, he and the subsequent indorsers of each part are liable on such part as if it were a separate bill.**133. Holder of first acquired part entitled to all** As between holders in due course of different parts of the same set he who first acquired title to his part is entitled to the other parts and the money represented by the bill.

## Chapter XVI: OF INTERNATIONAL LAW

**134. Law governing liability of parties to a foreign instrument** In the absence of a contract to the contrary and subject to the provisions of section 136, in the case of a foreign promissory note, bill of exchange or cheque,- (a) the law of the place where the instrument was made or drawn, or accepted or negotiated shall determine- (i) the capacity of the parties; and (ii) the validity of the instrument or, as the case may be, of its acceptance or

negotiation: Provided that such instrument shall not be invalid or inadmissible in evidence by reason only that it was not stamped or not sufficiently stamped according to the law of the place where it was made or drawn; (b) the law of the place where such instrument is payable shall determine,- (i) the liability of all parties thereto; (ii) the duties of the holder with respect to presentment for acceptance or payment; (iii) the date of maturity of the instrument; (iv) what constitutes dishonour; (v) the necessity for and sufficiency of a protest or notice of dishonour; (vi) all questions relating to payment and satisfaction including the currency in which and the rate of exchange at which the instrument is to be paid. *Illustration* A bill of exchange was drawn by A in California, where the rate of interest is 25 per cent., and accepted by B, payable in Washington, where the rate of interest is 6 per cent. The bill is indorsed in Bangladesh, and is dishonoured. An action on the bill is brought against B in Bangladesh. He is liable to pay Interest at the rate of 6 per cent. only; but, if A is charged as drawer, A is liable to pay interest at the rate of 25 per cent. **135. Omitted** Omitted by section 53 of the Negotiable Instruments (Amendment) Ordinance, 1962 (Ordinance No. XLIX of 1962). **136. Instrument made, etc., outside Bangladesh, but in accordance with their law** If a negotiable instrument is made, drawn, accepted or indorsed outside Bangladesh, but in accordance with the law of Bangladesh, the circumstance that any agreement evidenced by such instrument is invalid according to the law of the country wherein it was entered into does not invalidate any subsequent acceptance or indorsement made thereon within Bangladesh. **137. Presumption as to foreign law** The law of any foreign country regarding promissory notes, bills of exchange and cheques shall be presumed to be the same as that of Bangladesh, unless and until the contrary is proved.

## Chapter XVII: ON PENALTIES IN CASE OF DISHONOUR OF CERTAIN CHEQUES FOR INSUFFICIENCY OF FUNDS IN THE ACCOUNT

**138. Dishonour of cheque for insufficiency, etc. of funds in the account** (1) Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provision of this Act, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to thrice the amount of the cheque, or with both: Provided that nothing contained in this section shall apply unless- (a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier; (b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice, in writing, to the drawer of the cheque, within thirty days of the receipt of information by him from the bank regarding the return of the cheque as unpaid, and (c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within thirty days of the receipt of the said notice. (1A) The notice required to be served under clause (b) of sub-section (1) shall be served in the following manner- (a) by delivering it to the person on whom it is to be served; or (b) by sending it by registered post with acknowledgement due to that person at his usual or last known place of abode or business in Bangladesh; or (c) by publication in a daily Bangla national newspaper having wide circulation. (2) Where any fine is realized under sub-section (1), any amount up to the face value of the cheque as far as is covered by the

fine realized shall be paid to the holder. (3) Notwithstanding anything contained in sub-section (1) and (2), the holder of the cheque shall retain his right to establish his claim through civil court if whole or any part of the value of the cheque remains unrealized.**138A. Restriction in respect of appeal** Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no appeal against any order of sentence under sub-section (1) of section 138 shall lie, unless an amount of not less than fifty per cent of the amount of the dishonoured cheque is deposited before filing the appeal in the court which awarded the sentence.**139. Omitted** Omitted by section 3 of the Negotiable Instruments (Amendment) Act, 2000 (Act No. XVII of 2000).**140. Offences of Companies** (1) If the person committing an offence under section 138 is a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: Provided that nothing contained in this sub-section shall render any person liable to punishment if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence. (2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.*Explanation* . - For the purposes of this section- (a) "company" means any body corporate and includes a firm or other association of individuals; and (b) "director" in relation to a firm, means a partner in the firm.**141. Cognizance of offences** Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898),- (a) no court shall take cognizance of any offence punishable under section 138 except upon a complaint, in writing, made by the payee or, as the case may be, the holder in due course of the cheque; (b) such complaint is made within one month of the date on which the cause of action arises under clause (c) of the proviso to section 138; (c) no court inferior to that of a Court of Sessions shall try any offence punishable under section 138.

#### Footnotes

1. Throughout this Act, except otherwise provided, the words "Bangladesh", "Government" and "Taka" were substituted, for the words "Pakistan", Central Government" and "Rs." or "Rupees" respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).
2. The words, figures and comma "Articles 23 and 24 of the Bangladesh Bank Order, 1972" were substituted, for the words, figures and comma "Sections 24 and 25 of the State Bank of Pakistan Act, 1956" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).
3. Section 1A was inserted by section 3 of the Negotiable Instruments (Amendment) Ordinance, 1962 (Ordinance No. XLIX of 1962).
4. Sections 21A, 21B and 21C were inserted by section 12 of the Negotiable Instruments (Amendment) Ordinance, 1962 (Ordinance No. XLIX of 1962).
5. Section 27A was inserted by section 16 of the Negotiable Instruments (Amendment) Ordinance, 1962 (Ordinance No. XLIX of 1962).
6. Sections 28A, 29A, 29B and 29C were inserted by section 19 of the Negotiable Instruments (Amendment) Ordinance, 1962 (Ordinance No. XLIX of 1962).

7. Section 38A was inserted by section 23 of the Negotiable Instruments (Amendment) Ordinance, 1962 (Ordinance No. XLIX of 1962).
8. Section 45A was inserted by section 3 of the Negotiable Instruments Act, 1885 (Act No. II of 1885).
9. Section 53A was inserted by section 28 of the Negotiable Instruments (Amendment) Ordinance, 1962 (Ordinance No. XLIX of 1962).
10. Sections 57A and 57B were inserted by section 30 of the Negotiable Instruments (Amendment) Ordinance, 1962 (Ordinance No. XLIX of 1962).
11. Section 71A was inserted by section 36 of the Negotiable Instruments (Amendment) Ordinance, 1962 (Ordinance No. XLIX of 1962).
12. Section 75A was inserted by section 2 of the Negotiable Instruments (Amendment) Act, 1920 (Act No. XXV of 1920).
13. The word "Dinajpur" was substituted, for the word "Sialkot" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).
14. Section 85A was inserted by section 2 of the Negotiable Instruments (Amendment) Act, 1930 (Act No. XXV of 1930).
15. Section 104A was inserted by section 5 of the Negotiable Instruments Act, 1885 (Act No. II of 1885).
16. Section 122A was inserted by section 42 of the Negotiable Instruments (Amendment) Ordinance, 1962 (Ordinance No. XLIX of 1962).
17. Section 123A was inserted by section 43 of the Negotiable Instruments (Amendment) Ordinance, 1962 (Ordinance No. XLIX of 1962).
18. Section 125A was inserted by section 45 of the Negotiable Instruments (Amendment) Ordinance, 1962 (Ordinance No. XLIX of 1962).
19. Section 131A was inserted by section 2 of the Negotiable Instruments (Amendment) Act, 1947 (Act No. XXXIII of 1947).
20. Sections 131B, 131C, 131D, 131E, 131F, 131G, 131H and 131I were inserted by the Negotiable Instruments (Amendment) Ordinance, 1962 (Ordinance No. XLIX of 1962).
21. The "CHAPTER XVII" including sections 138 to 141 were substituted, for "CHAPTER XVII" including sections 138 and 139" by section 2 of the Negotiable Instruments (Amendment) Act, 1994 (Act No. XIX of 1994).
22. The existing section was re-numbered as sub-section (1) by section 2 of the Negotiable Instruments (Amendment) Act, 2000 (Act No. XVII of 2000).
23. The words and commas "for the discharge, in whole or in part, of any debt or other liability," were omitted by section 2 of the Negotiable Instruments (Amendment) Act, 2000 (Act No. XVII of 2000).
24. The word "thrice" was substituted, for the word "twice" by section 2 of the Negotiable Instruments (Amendment) Act, 2000 (Act No. XVII of 2000).
25. The words "thirty days" were substituted for the words "fifteen days" by section 2 of the Negotiable Instruments (Amendment) Act, 2006 (Act No. III of 2006).
26. The words "thirty days" were substituted, for the words "fifteen days" by section 2 of the Negotiable Instruments (Amendment) Act, 2006 (Act No. III of 2006).
27. The Explanation of sub-section (1) of section 138 was omitted by section 2 of the Negotiable Instruments (Amendment) Act, 2000 (Act No. XVII of 2000).
28. Sub-section (1A) was inserted by section 2 of the Negotiable Instruments (Amendment) Act, 2006 (Act No. III of 2006).

29. Sub-sections (2) and (3) were added by section 2 of the Negotiable Instruments (Amendment) Act, 2000 (Act No. XVII of 2000).
30. Section 138A was inserted by section 3 of the Negotiable Instruments (Amendment) Act, 2006 (Act No. III of 2006).
31. Clause (c) of section 141 was substituted, for the former clause (c) by section 4 of the Negotiable Instruments (Amendment) Act, 2006 (Act No. III of 2006).

This report has presented three key legislative acts from 1881, sourced from the official Laws of Bangladesh portal, in a consolidated and professionally readable format.