OF PAYMENT AND INTEREST

78. To whom payment could 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 provision 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 realization of such

amount, or until the date of the institution of a suit to recover such

amount;

(b) where 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 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, 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 part charged, until tender

or realization 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 endorser of an instrument

dishonoured by non-payment, he is liable to pay interest only from 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, further claim thereon against him.

CHAPTER VII

OF DISCHARGE FROM LIABILITY ON NOTES, BILLS AND

CHEQUES

82. Discharge from liability.---The maker, acceptor or endorser respectively of

a negotiable instrument is discharged from liability thereon----

(a) by cancellation; to a holder thereof who cancels such acceptor's or

endorser's name with intent to discharge him, and to all parties

claiming under such holder;

(b) by release; to a holder thereof who otherwise discharges such

maker, acceptor or endorser, and to all parties deriving title under

such holder after notice of such discharge; and

(c) to all parties thereto, if the instrument is payable to bearer, or has

been endorsed in blank, and such maker, acceptor or endorser

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 cheques is not presented for payment within a reasonable time of

its issue, and he 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 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.

Illustrations

(a) A draws a cheque for Rs. 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 Sialkot on a Bank in Karachi. The Bank fails before

the cheque could be presented in ordinary course. A is not discharged, for

he has not suffered actual damage through any delay in presenting the

cheque.

Substituted for the original section by the Negotiable Instruments (Amendment)

Act, 1897 (VI of 1897), S. 3.

85. Cheque payable to order. (1) Where a cheque payable to order purports to

be endorsed 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 to the bearer thereof, notwithstanding

any endorsement whether in full or in blank appearing thereon, and

notwithstanding that any such endorsement 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 endorsed 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

petitioner 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 is 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 endorsee and any such alteration, if made by an endorsee,

discharges his endorser 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 endorser bound notwithstanding previous alteration: -- An

acceptor or endorser of a negotiable instrument is bound by his

acceptance or endorsement 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 safe according to the apparent tenor thereof at the time of

payment and otherwise in due course, shall discharge such person at

banker from. all liability thereon; and such payment shall not be

questioned b reason of the instrument having been altered or the cheque

crossed.

90. Extinguish of rights of action on bill in acceptor's lands. The makes,

drawer, acceptor or endorser of a negotiable instrument is discharged

from liability thereon when the person liable thereon on principal debtor,

becomes the holder thereof at or after its

maturity.

(2) When the holder of an accepted bill of exchange enter in to any contract

with the acceptor of the nature referred to in Section 39 the other parties

are discharged, unless the hold has expressly reserved his right to charge.