NEGOTIABLE INSTRUMENTS ACT PROFESSIONAL CORPUS - BATCH 02

Chapter XVII - Cheque Dishonour and Penalties

Run the dishonour timeline, legally enforceable debt, notice, jurisdiction, company-person liability, evidence, settlement and appellate-deposit controls as one file.

Source review: 2026-07-18 | Act 26 of 1881 | Authors: CA Nikhil Gupta - Kajri Singh

Source status: The complete section architecture is mapped to India Code and the operational layer includes identified RBI cheque/CTS directions. India Code does not list standalone central Rules or Act-specific circulars in its repository tables. The official Act/Gazette, binding judgments and current RBI directions prevail. Exact local line-by-line statutory text is not claimed until source-hash certification is complete.

Dedicated Finin2min Summary - Chapter in 2 Minutes

- Run the dishonour timeline, legally enforceable debt, notice, jurisdiction, company-person liability, evidence, settlement and appellate-deposit controls as one file.
- Primary control: section 138 end-to-end gate.
- Run debt, cheque, return, notice, service, payment window, limitation, jurisdiction, evidence, entity liability and settlement together.
- Apply the exact current section text, amendment history and transaction evidence together.
- Do not confuse a negotiable instrument remedy with automatic proof of the underlying transaction.

Section-by-section provision map

Provision / control	Subject	Legal effect / rule	Implementation	Evidence
Section 138	Dishonour of cheque for insufficiency, etc., of funds in the account.	Section 138 creates a cheque-dishonour offence when a cheque issued for a legally enforceable debt or liability is returned for the statutory reason and the presentation, demand notice, non-payment and complaint conditions are satisfied.	Create a dated timeline immediately on return: validity/ presentation, return memo, notice within the statutory period, service, payment window, cause of action and complaint limitation.	Preserve original/ image, underlying debt, bank memo, notice, dispatch and tracking, delivery/ service evidence, response, board/ partner authority and limitation worksheet.
Section 139	Presumption in favour of holder.	The court must presume, unless rebutted, that the holder received the cheque for discharge of debt or liability.	The accused can rebut on the applicable standard using the complainant evidence, probabilities and defence material; the complainant should still prove the transaction file.	Keep contemporaneous commercial records rather than relying on the cheque alone.
Section 140	Defence which may not be allowed in any prosecution under section 138.	Section 140 addresses defence which may not be allowed in any prosecution under section 138.	Identify trigger, parties, conditions, exceptions, consequence and linked sections before execution.	Keep the current source, instrument, authority, commercial records, notices and outcome evidence.
Section 141	Offences by companies.	Where the drawer is a company, the company and persons in charge/ responsible at the time may attract	Identify the juristic entity, signatory, role, responsibility period, resignation/ appointment dates, board delegation	Keep MCA/LLP master data, board powers, bank mandate, role descriptions, resignation filings and

Provision / control	Subject	Legal effect / rule	Implementation	Evidence
		liability, with separate consent/connivance/ neglect routes and statutory defences.	and specific averments.	complaint authorisation.
Section 142	Cognizance of offences.	Section 142 controls written complaint, limitation, cognizance and territorial jurisdiction for section 138 cases.	Map the payee/ holder, filing authority, bank branch route, collection account and statutory jurisdiction before filing.	Keep court-jurisdiction memo, bank branch proof and condonation material if required.
Section 142A	Validation for transfer of pending cases.	Section 142A addresses validation for transfer of pending cases.	Identify trigger, parties, conditions, exceptions, consequence and linked sections before execution.	Keep the current source, instrument, authority, commercial records, notices and outcome evidence.
Section 143	Power of Court to try cases summarily.	Section 143 addresses power of court to try cases summarily.	Identify trigger, parties, conditions, exceptions, consequence and linked sections before execution.	Keep the current source, instrument, authority, commercial records, notices and outcome evidence.
Section 143A	Power to direct interim compensation.	The trial court may direct interim compensation within the statutory ceiling in specified circumstances, subject to repayment consequences on acquittal.	Quantify the cheque amount, order percentage, payment date, extension, accounting and recovery/refund exposure.	Keep order, payment proof, ledger treatment and appeal/ recovery file.
Section 144	Mode of service of summons.	Section 144 addresses mode of service of summons.	Identify trigger, parties, conditions, exceptions, consequence and	Keep the current source, instrument, authority, commercial

Provision / control	Subject	Legal effect / rule	Implementation	Evidence
			linked sections before execution.	records, notices and outcome evidence.
Section 145	Evidence on affidavit.	Complainant evidence may be given on affidavit, and the deponent may be summoned/ examined as permitted.	Prepare an exhibit-indexed affidavit that authenticates each transaction, cheque, return, notice and service record.	Preserve originals for inspection and cross-examination.
Section 146	Bank slip prima facie evidence of certain facts.	The bank return slip or memo bearing the official mark is prima facie evidence of dishonour unless disproved.	Obtain a clear memo with correct cheque details, date and reason code; reconcile it to bank statement and presentation proof.	Keep original/ electronic certified memo and bank confirmation.
Section 147	Offences to be compoundable.	Offences under the Act are compoundable.	Evaluate settlement early, document payment/default consequences and obtain a court-recognised disposal order.	Keep settlement agreement, receipts, withdrawal/ compounding application and final order.
Section 148	Power of Appellate Court to order payment pending appeal against conviction.	In an appeal against conviction, the appellate court may order deposit of at least the statutory percentage of fine/ compensation, in addition to interim compensation paid under section 143A.	Budget the deposit, time limit, extension, release to complainant and refund-with-interest risk if acquitted.	Keep appellate order, deposit challan, release undertaking and refund calculation.

Finin2min clause-by-clause decode

Section 138 - Dishonour of cheque for insufficiency, etc., of funds in the account.

Decode: Section 138 creates a cheque-dishonour offence when a cheque issued for a legally enforceable debt or liability is returned for the statutory reason and the presentation, demand notice, non-payment and complaint conditions are satisfied.

Implementation: Create a dated timeline immediately on return: validity/presentation, return memo, notice within the statutory period, service, payment window, cause of action and complaint limitation.

Evidence: Preserve original/image, underlying debt, bank memo, notice, dispatch and tracking, delivery/service evidence, response, board/partner authority and limitation worksheet.

Section 139 - Presumption in favour of holder.

Decode: The court must presume, unless rebutted, that the holder received the cheque for discharge of debt or liability.

Implementation: The accused can rebut on the applicable standard using the complainant evidence, probabilities and defence material; the complainant should still prove the transaction file.

Evidence: Keep contemporaneous commercial records rather than relying on the cheque alone.

Section 140 - Defence which may not be allowed in any prosecution under section 138.

Decode: Section 140 addresses defence which may not be allowed in any prosecution under section 138.

Implementation: Identify trigger, parties, conditions, exceptions, consequence and linked sections before execution.

Evidence: Keep the current source, instrument, authority, commercial records, notices and outcome evidence.

Section 141 - Offences by companies.

Decode: Where the drawer is a company, the company and persons in charge/responsible at the time may attract liability, with separate consent/connivance/neglect routes and statutory defences.

Implementation: Identify the juristic entity, signatory, role, responsibility period, resignation/appointment dates, board delegation and specific averments.

Evidence: Keep MCA/LLP master data, board powers, bank mandate, role descriptions, resignation filings and complaint authorisation.

Section 142 - Cognizance of offences.

Decode: Section 142 controls written complaint, limitation, cognizance and territorial jurisdiction for section 138 cases.

Implementation: Map the payee/holder, filing authority, bank branch route, collection account and statutory jurisdiction before filing.

Evidence: Keep court-jurisdiction memo, bank branch proof and condonation material if required.

Section 142A - Validation for transfer of pending cases.

Decode: Section 142A addresses validation for transfer of pending cases.

Implementation: Identify trigger, parties, conditions, exceptions, consequence and linked sections before execution.

Evidence: Keep the current source, instrument, authority, commercial records, notices and outcome evidence.

Section 143 - Power of Court to try cases summarily.

Decode: Section 143 addresses power of court to try cases summarily.

Implementation: Identify trigger, parties, conditions, exceptions, consequence and linked sections before execution.

Evidence: Keep the current source, instrument, authority, commercial records, notices and outcome evidence.

Section 143A - Power to direct interim compensation.

Decode: The trial court may direct interim compensation within the statutory ceiling in specified circumstances, subject to repayment consequences on acquittal.

Implementation: Quantify the cheque amount, order percentage, payment date, extension, accounting and recovery/refund exposure.

Evidence: Keep order, payment proof, ledger treatment and appeal/recovery file.

Section 144 - Mode of service of summons.

Decode: Section 144 addresses mode of service of summons.

Implementation: Identify trigger, parties, conditions, exceptions, consequence and linked sections before execution.

Evidence: Keep the current source, instrument, authority, commercial records, notices and outcome evidence.

Section 145 - Evidence on affidavit.

Decode: Complainant evidence may be given on affidavit, and the deponent may be summoned/examined as permitted.

Implementation: Prepare an exhibit-indexed affidavit that authenticates each transaction, cheque, return, notice and service record.

Evidence: Preserve originals for inspection and cross-examination.

Section 146 - Bank slip prima facie evidence of certain facts.

Decode: The bank return slip or memo bearing the official mark is prima facie evidence of dishonour unless disproved.

Implementation: Obtain a clear memo with correct cheque details, date and reason code; reconcile it to bank statement and presentation proof.

Evidence: Keep original/electronic certified memo and bank confirmation.

Section 147 - Offences to be compoundable.

Decode: Offences under the Act are compoundable.

Implementation: Evaluate settlement early, document payment/default consequences and obtain a court-recognised disposal order.

Evidence: Keep settlement agreement, receipts, withdrawal/compounding application and final order.

Section 148 - Power of Appellate Court to order payment pending appeal against conviction.

Decode: In an appeal against conviction, the appellate court may order deposit of at least the statutory percentage of fine/compensation, in addition to interim compensation paid under section 143A.

Implementation: Budget the deposit, time limit, extension, release to complainant and refund-with-interest risk if acquitted.

Evidence: Keep appellate order, deposit challan, release undertaking and refund calculation.

Finin2min implementation explanation

Use a section 138 end-to-end gate. Run debt, cheque, return, notice, service, payment window, limitation, jurisdiction, evidence, entity liability and settlement together. Assign an owner, due date, reviewer, source version and exception approver. No step is complete merely because a cheque exists.

Practical examples and calculations

Section 138 illustration

Illustrative timeline: cheque returned 10 July; demand notice must be issued within the statutory period from receipt of return information; service date starts the payment window; cause of action and complaint limitation are separately calendared. Actual dates, holidays, service and condonation require legal verification.

Section 139 illustration

Example control: before relying on section 139, prepare a one-page fact matrix for presumption in favour of holder, identify the document and date that proves each condition, and quantify principal, interest, fees or loss only from source records.

Section 140 illustration

Example control: before relying on section 140, prepare a one-page fact matrix for defence which may not be allowed in any prosecution under section 138, identify the document and date that proves each condition, and quantify principal, interest, fees or loss only from source records.

Section 141 illustration

Example control: before relying on section 141, prepare a one-page fact matrix for offences by companies, identify the document and date that proves each condition, and quantify principal, interest, fees or loss only from source records.

Section 142 illustration

Example control: before relying on section 142, prepare a one-page fact matrix for cognizance of offences, identify the document and date that proves each condition, and quantify principal, interest, fees or loss only from source records.

Section 142A illustration

Example control: before relying on section 142A, prepare a one-page fact matrix for validation for transfer of pending cases, identify the document and date that proves each condition, and quantify principal, interest, fees or loss only from source records.

Practical transaction application

At transaction inception, document the underlying obligation, consideration, invoice/delivery/acceptance, payment terms, instrument purpose, signatory mandate, crossing, custody and alternative payment/return consequences. Reconcile books, GST/tax records and bank entries.

Authority, consent and execution controls

For a company/LLP/firm, verify board/partner authority, bank mandate, delegated limits, specimen signatures, signing capacity and complaint/settlement authority. Avoid ambiguous signatures and preserve appointment/resignation dates.

Stamp duty and registration alerts

Promissory notes and bills may attract the Indian Stamp Act and applicable State/territorial stamp framework. Cheque, agreement, guarantee, settlement and security documents can have distinct treatment. Verify current place of execution, instrument character, rate, timing and admissibility consequences before signing.

Evidence and document-retention checklist

- Current official Act and amendment source
- Original instrument / bank image and custody log
- Underlying contract, invoice, delivery and acceptance
- Authority, mandate and signatory records
- Consideration, ledger, bank and tax/GST reconciliation
- Presentation proof and bank return memo
- Notice, dispatch, tracking, service and response

- Interest, part-payment, credit-note and loss calculation
- Settlement, compounding and court orders
- Electronic record export, metadata and certification
- Case-law/limitation/jurisdiction research note
- Exception, mitigation and closure log

Use a legal-hold folder with immutable scans, originals register, metadata/export logs, bank-certified records, emails, delivery/acceptance, notices, service proofs, court filings and source-version records. Define retention beyond ordinary finance policy while litigation or limitation remains open.

Performance, delivery and payment controls

Link payment obligation to objective delivery/acceptance milestones. Record disputed quantity/quality, credit notes, set-off, part payment, interest and extension. Do not issue replacement cheques without cancelling and accounting for the earlier instrument.

Breach, loss, mitigation and remedy framework

Stop continuing loss, preserve evidence, verify the legally enforceable amount, issue contract/statutory notice, offer cure where appropriate, mitigate, quantify recoverable loss and select civil, criminal, insolvency or negotiated remedies without double recovery.

Limitation and forum controls

Maintain separate clocks for instrument maturity/presentation, notice, payment window, complaint, civil recovery, arbitration and appeal. Confirm territorial and subject-matter jurisdiction, filing authority, court holiday rules, service and condonation.

Arbitration and mediation interface

Arbitration/mediation can resolve the underlying commercial dispute and settlement terms, but cannot privately override mandatory criminal-court procedure. Coordinate compounding/withdrawal/disposal orders and default consequences.

Company, partnership, GST and tax overlays

Company/LLP law governs authority and officer responsibility; partnership law affects firm/partner exposure; GST and income-tax records help evidence supply, consideration and write-offs; IBC may alter recovery/

proceeding strategy; FEMA applies to cross-border instruments; accounting standards govern recognition and impairment.

Finin2min Q&A

Does possession of a cheque alone prove the entire claim?

No. Statutory presumptions may assist, but the transaction, authority, amount, presentation, notice and other conditions should be evidenced.

Can a contract arbitration clause eliminate section 138 procedure?

No. It may govern the underlying civil dispute, while statutory criminal-court and compounding procedure continues to require proper handling.

Should altered cheques be manually corrected?

Ordinarily use a fresh instrument and preserve the cancelled instrument; CTS and material-alteration controls make overwriting high risk.

What is the first control after a cheque is returned?

Obtain and verify the bank memo, freeze the timeline, preserve the underlying debt file and assign notice/settlement/litigation owners.

How should entity liability be assessed?

Identify the drawer entity, signatory and persons in charge/responsible at the relevant time, plus any consent, connivance or neglect route and statutory defence evidence.

Is the cheque amount always the recoverable commercial amount?

Not necessarily. Reconcile part payments, credit notes, set-off, interest, tax, settlement and the legally enforceable balance.

Can the case be settled?

Section 147 permits compounding, but payment terms, default, court disposal and parallel civil remedies must be documented.

What source prevails?

The current official Act/Gazette, binding court law, applicable RBI direction and fact-specific court order prevail over the educational explanation.

Chapter-specific decision flowchart