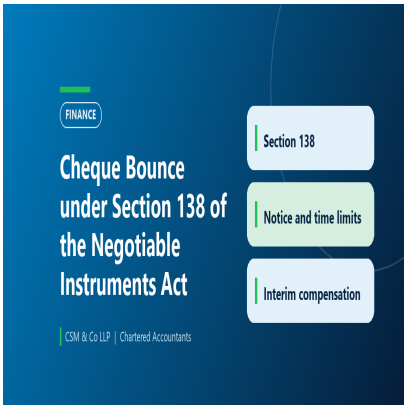

Cheque Bounce under Section 138 of the Negotiable Instruments Act: Notice, Time Limits, Penalty, Interim Compensation and Appeal

Description

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Quick summary

- A cheque returned unpaid for insufficient funds, or because it exceeds the arrangement with the bank, is an offence under section 138 if it was issued for a legally enforceable debt or liability. Punishment is imprisonment up to two years, or fine up to twice the cheque amount, or both.
- Three steps in time: present the cheque within six months of its date or its validity, whichever is earlier; send a written demand notice within 30 days of the bank's return information; the drawer has 15 days from receipt of the notice to pay.
- The complaint must be filed within one month after the 15 days end, in the court of the branch where the payee holds the account (if the cheque was deposited through an account).
- The court may order interim compensation up to 20% of the cheque amount, and an appellant against conviction may be asked to deposit at least 20% of the fine or compensation.

A bounced cheque is not always a crime, but one returned for want of funds can be. Section 138 of the Negotiable Instruments Act, 1881 turns the dishonour of a cheque issued to discharge a debt into a criminal offence, subject to a strict timetable. Missing any step in that timetable ends the complaint, so the dates matter more than the amount.

When section 138 applies

A cheque drawn by a person on an account maintained by him with a banker, for payment of an amount to another person from that account, for the discharge in whole or in part of any **debt or other liability**, is returned by the bank unpaid either because:

- the money standing to the credit of the account is **insufficient** to honour the cheque, or
- the cheque **exceeds the amount arranged** to be paid from that account by an agreement with the bank.

“Debt or other liability” means a **legally enforceable** debt or liability. A cheque given as a gift, or for a time-barred or illegal debt, falls outside the section.

The three conditions in the proviso

1. **Presentation:** the cheque is presented to the bank within **six months** from the date on which it is drawn, or within the period of its validity, whichever is earlier. (The RBI has fixed the validity of a cheque at three months from its date, so in practice the cheque must be presented within three months.)
2. **Demand notice:** the payee or holder in due course gives a **written notice** to the drawer demanding the amount, **within 30 days** of receiving information from the bank that the cheque was returned unpaid.
3. **Drawer’s chance to pay:** the drawer fails to pay the amount within **15 days** of receiving the notice.

Only when all three are met is the offence complete.

Filing the complaint (section 142)

- Only on a **written complaint** by the payee or the holder in due course.
- Within **one month** from the date the cause of action arises, which is the day after the 15 days to pay have ended. The court may take a late complaint if the complainant shows sufficient cause.
- The court must be not lower than a Metropolitan Magistrate or Judicial Magistrate of the first class.
- **Territorial jurisdiction:** if the cheque was delivered for collection through an account, the court where the payee’s (or holder’s) branch is situated; if it was presented for payment otherwise than through an account, the court where the drawer’s branch is situated. A cheque delivered to any branch of the payee’s bank is treated as delivered to the branch where the payee holds the account.
- Later complaints against the same drawer for other cheques go to the same court as an earlier pending complaint (section 142A).

Example timeline

Step	Date
Cheque dated	01/06/2026
Presented to the bank	15/06/2026 (within validity)
Bank return memo received	17/06/2026
Last day to send the notice (30 days from receipt of information)	17/07/2026
Notice sent and received	05/07/2026
Drawer’s 15 days end	20/07/2026
File the complaint by (one month after the cause of action arises; do not leave it to the last day)	20/08/2026

Count the days from the date the notice was received, not the date it was posted, and keep the postal proof.

Presumptions and what the drawer cannot say

- It is presumed, unless the contrary is proved, that the holder received the cheque for the discharge of a debt or liability (section 139).
- It is **not a defence** that the drawer had no reason to believe the cheque would be dishonoured (section 140).
- On production of the bank's slip or memo showing the official mark of dishonour, the court presumes the fact of dishonour until it is disproved (section 146).
- The complainant's evidence can be given on affidavit (section 145), and summons can be served by speed post or approved courier (section 144).

Punishment

Imprisonment which may extend to **two years**, or a fine which may extend to **twice the amount of the cheque** , or both.

Companies (section 141): where the drawer is a company, every person in charge of and responsible for the conduct of its business at the time of the offence, as well as the company, is deemed guilty, unless the person proves the offence was committed without knowledge or that he exercised all due diligence. A nominee director from the Government or a government financial institution is not liable. A director, manager or other officer is also liable where the offence was committed with consent or connivance or is attributable to neglect on his part. For this section, "company" includes a firm or other association of individuals, and "director" means a partner in a firm.

Trial, interim compensation and appeal

- **Summary trial** (section 143): trials are by a Judicial Magistrate of the first class or Metropolitan Magistrate and follow the summary procedure, with a sentence of up to one year in a summary trial, and the court endeavours to conclude the trial within six months of the complaint.
- **Interim compensation** (section 143A, from 01/09/2018): the court may order the drawer to pay the complainant up to **20% of the cheque amount**, when the drawer pleads not guilty in a summary trial or summons case, or after charge is framed in other cases. It is payable within 60 days (extendable by up to 30 days) and is refunded, with interest at the RBI bank rate, if the drawer is acquitted.
- **Appeal deposit** (section 148): in an appeal by the drawer against conviction, the appellate court may order a deposit of at least **20% of the fine or compensation** awarded, in addition to any interim compensation, within 60 days (extendable by 30 days). The amount can be released to the complainant during the appeal and is repaid with interest if the appellant is acquitted.
- **Settlement:** every offence under the Act is **compoundable** (section 147).

What to do if your cheque bounces

1. Ask the bank for the return memo and note the date you received it.
2. Send a written notice, by a method that gives proof of delivery, within 30 days, stating the cheque number, date, amount and the reason for return.
3. Wait for the 15 days to end, then file the complaint within the next month.
4. Keep the bank slips, the notice, the postal receipts and proof of the underlying debt (invoice, ledger, agreement).

If you are the drawer, reply to the notice, pay within 15 days where the debt is genuine, and keep proof of payment.

Points to check

- This post follows the Act as published on India Code. That copy still refers to the Code of Criminal Procedure, 1973; the Bharatiya Nagarik Suraksha Sanhita, 2023 has replaced it from 01/07/2024, so check the equivalent BNSS provisions for procedure.
- The three month validity of a cheque is an RBI instruction, not stated in the Act.
- The facts of each case (the debt, defences, jurisdiction) decide the outcome; take legal advice before sending a notice or replying to one.

Frequently asked questions

Is every bounced cheque a criminal offence?

No. Section 138 applies when a cheque issued for a legally enforceable debt or liability is returned unpaid because the account has insufficient money, or the cheque exceeds the amount arranged with the bank. Other reasons, such as signature mismatch or account closed, are dealt with by courts on their own facts.

What is the punishment?

Imprisonment for a term which may extend to two years, or a fine which may extend to twice the amount of the cheque, or both.

Within what time must the cheque be presented?

Within six months from the date on which it was drawn, or within its validity period, whichever is earlier.

What is the time limit for the legal notice?

A written demand must be given to the drawer within 30 days of receiving information from the bank that the cheque was returned unpaid.

How long does the drawer have to pay after the notice?

15 days from the receipt of the notice. If the drawer does not pay, the cause of action arises.

By when must the complaint be filed?

Within one month from the date the cause of action arises, that is, after the 15 days end. The court can take a late complaint if the complainant shows sufficient cause for the delay.

Which court has jurisdiction?

The court where the payee's or holder's bank branch is situated, if the cheque was delivered for collection through an account; otherwise the court where the drawer's bank branch is situated.

Can the case be settled?

Yes. Every offence under the Act is compoundable under section 147.

What is interim compensation?

Under section 143A, the court trying the case may order the drawer to pay up to 20% of the cheque amount to the complainant when the drawer pleads not guilty (or after charge is framed), payable within 60 days, and refundable with interest if the drawer is acquitted.

Official sources

- India Code: The Negotiable Instruments Act, 1881 (sections 138 to 148)
- Reserve Bank of India

Related reading

- Crossed Cheque under the Negotiable Instruments Act: General Crossing, Special Crossing, Not Negotiable and Account Payee

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