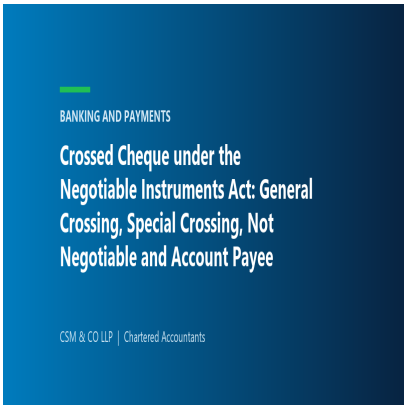

Crossed Cheque under the Negotiable Instruments Act: General Crossing, Special Crossing, Not Negotiable and Account Payee

Description

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Quick summary

- A cheque with two parallel transverse lines across its face (with or without “and company” or “not negotiable”) is crossed generally, and a bank on which it is drawn can pay it only to another banker, not over the counter.
- A cheque with the name of a banker across its face is crossed specially, and can be paid only to that banker or its agent for collection.
- “Not negotiable” does not stop transfer, but the person taking the cheque gets no better title than the person from whom he took it.
- “Account payee” is a banking practice and is not defined in the Act. It tells the collecting bank to credit only the payee’s account.

Crossing a cheque is the oldest anti-fraud device in banking. The Negotiable Instruments Act, 1881 deals with it in sections 123 to 131A (Chapter XIII, “Of crossed cheques”). The idea is simple: a crossed cheque cannot be paid in cash across the counter, so the money has to pass through a bank account where it can be traced.

General crossing (section 123)

A cheque that bears across its face either:

- the words **“and company”** (or an abbreviation) between two parallel transverse lines, or
- **two parallel transverse lines simply**,

with or without the words “not negotiable”, is **crossed generally**.

Special crossing (section 124)

A cheque that bears across its face the **name of a banker**, with or without the words “not negotiable”, is **crossed specially**, and crossed to that banker.

Who can cross, and when (section 125)

- The holder of an **uncrossed** cheque may cross it generally or specially.
- The holder of a cheque crossed **generally** may cross it specially, or add the words “not negotiable”.
- A banker to whom a cheque is crossed specially may cross it again specially to **another banker, his agent, for collection**.

How the paying bank must act

Crossing	The drawee bank may pay
General	Only to a banker (section 126)
Special	Only to the banker to whom it is crossed, or his agent for collection (section 126)
Special to more than one banker (other than an agent for collection)	The bank must **refuse** payment (section 127)

Consequences for the banks and the parties

- **Payment in due course (section 128):** if the drawee bank has paid a crossed cheque in due course, both the bank, and the drawer (where the cheque has reached the payee), are placed in the same position as if the amount had been paid to and received by the true owner.
- **Payment out of due course (section 129):** a bank that pays a generally crossed cheque otherwise than to a banker, or a specially crossed cheque otherwise than to the banker named or its collecting agent, is liable to the **true owner** for any loss he sustains.
- **Collecting bank (section 131):** a banker who in good faith and without negligence receives payment for a customer of a crossed cheque, crossed to itself, is not liable to the true owner merely because the customer’s title turns out to be defective. A banker is treated as receiving payment even if it credits the customer’s account before receiving payment. Where the payment is based on an electronic image of a truncated cheque, the collecting banker must verify the prima facie genuineness of the cheque and any fraud, forgery or tampering apparent on its face, with due diligence and ordinary care.
- **Drafts (section 131A):** the same chapter applies to a draft as if it were a cheque.

“Not negotiable” (section 130)

The words do **not** make the cheque non-transferable. What they do is take away the usual protection of a person who takes a negotiable instrument in good faith for value: someone who takes a crossed cheque marked “not negotiable” does **not have, and cannot give, a better title** than the person from whom he took it. If the cheque was stolen, no later holder gets good title, however innocent.

“Account payee”

The words “account payee” or “A/c payee only” written between the lines are **not in the Act**. They are a banking practice, understood as an instruction to the collecting bank to credit only the account of the named payee. How a bank treats them is a matter of its own rules and RBI instructions, so ask your bank before relying on them for a large payment.

Practical points

- To protect a cheque you send by post or courier, cross it, and add the payee’s name and “account payee only”.
- To pay a person who has no bank account, do not cross the cheque, or use a bearer cheque with caution, since an uncrossed cheque can be paid in cash to whoever presents it.
- Where a crossed cheque has been paid to the wrong person, tell the bank in writing at once and keep a copy of the cheque and the statement.
- A crossed cheque that is returned unpaid for insufficiency of funds still falls under section 138 if all other conditions are met (see our post on cheque bounce).

Points to check

- This post follows the Act as published on India Code. The truncated-cheque explanation to section 131 was added by amendment and applies where payment is based on an electronic image.
- Practice for “account payee” and bank procedures varies; check the bank’s own rules and RBI instructions for the cheque truncation system.

Frequently asked questions

What is a crossed cheque?

A cheque with an addition across its face that restricts how the drawee bank may pay it. Under section 123, two parallel transverse lines (with or without the words and company or not negotiable) make it crossed generally. Under section 124, the name of a banker across its face makes it crossed specially.

Can a crossed cheque be encashed over the counter?

No. A cheque crossed generally can be paid only to a banker, and a cheque crossed specially only to the banker named or to his agent for collection (section 126). It has to go through a bank account.

Can the holder cross an uncrossed cheque?

Yes. The holder may cross it generally or specially. The holder of a generally crossed cheque may cross it specially or add not negotiable (section 125).

What does not negotiable mean on a cheque?

The cheque can still be transferred, but a person who takes it gets no better title than the person from whom he took it, and cannot give a better title (section 130). A thief or finder cannot pass on good title.

What happens if a bank pays a crossed cheque wrongly?

A banker who pays a generally crossed cheque otherwise than to a banker, or a specially crossed cheque otherwise than to the named banker or its agent, is liable to the true owner for any loss (section 129).

Is account payee in the Act?

No. The Act deals with general and special crossing and not negotiable. Account payee is a banking practice of writing the words across the cheque so that the proceeds are credited only to the payee's account.

Official sources

- India Code: The Negotiable Instruments Act, 1881 (sections 123 to 131A)
- Reserve Bank of India

Related reading

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

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Date
09/10/2026
Date Created
02/07/2026
Author
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