

LEGAL REMEDIES AFTER CHEQUE BOUNCE

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What is dishonoring of Cheque

A cheque bounces when a bank doesn't honour a payment. A few of the reasons are wrong signature, mismatch of figures written on the cheque (in words and figures) and overwriting.

- These issues are minor and can be solved without the court's intervention.
- A major cause for concern is when a cheque bounces due to lack of funds in the drawer's account.
- Act of dishonoring of the cheque due to insufficient funds is a criminal offence under Section 138 of the Negotiable Instrument Act, 1881.

Initial step after cheque bounce

When the cheque is bounced then the drawee bank instantly issues and sends a 'Cheque Return Memo' to the banker of payee. That cheque return memo mentions the reason for section 138 cheque bounce or non-payment.

Written Notice to the Drawer:

The ideal step would be to send a cheque bounce legal notice to the drawer within 30 days from the date of acknowledging the 'Cheque Return memo', stating wherein, to make the payment to the payee within 15 days from the date of receipt of such notice by the drawer.

After expiration of 15 days:

- **Action under Section 138 of Negotiable Instruments Act:** In the event of expiry of notice period of 15 days, the payee has the right to file a criminal case within 30 days of such expiry of notice period in a court of competent jurisdiction.
- **Criminal Action under Section 420 IPC:** This remedy is in the nature of criminal suit for the offence of cheating under Section 420 of Indian Penal Code (IPC) within 3 years from the date of issue of cheque. The remedy is not directly related to a cheque bounce case. It is only applicable if you can prove that the drawer cheated you and had dishonest intention to cheat. It is but an additional remedy in cases where cheating forms a part of the offence.

- **Civil Action as Summary Suit:** This remedy is available for a longer duration of time. You can file a summary suit for debt recovery in India for the amount of cheque along with interest and legal expenses. Notice can be issued for filing of the summary suit in regards to recovery of money.

Punishment

The punishment for cheque bounce is imprisonment for a term not more than two years or a fine that can extend to twice the amount of the cheque or both.

Points to be noted:

- For the applicability of Section 138 of Negotiable Instrument Act it is necessary that the cheque has been issued as a legal obligation. It simply means that a cheque given as a gift, donation or any other non-legal obligation are not covered under the cheque bounce law or cheque bounce act.
- A cheque expires after three months from the date of its issuance.