

LECTURE ON BANKING LAW:

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PROMISSORY NOTE -

Promissory Note is an unconditional promise in writing made by one person to another, signed by the maker, engaging to pay on demand or at a fixed or determinable future time, a sum certain in money to or to the order of a specified person, or to bearer. (Dictionary of Law by L.B. Curzon). A Promissory Note is an instrument in writing (not being a bank note or currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument. (Sec.4, N.I. Act, 1881). Essential Characteristics-

1. Written Instrument - It may either be printed or typed or written by a pen or pencil. A Promissory Note written by a pencil is valid in the eyes of law. But manipulation is easily possible in a Promissory Note written by the pencil, and therefore, it appears not proper to recognise such Promissory Note.
2. Not a Bank Note or Currency Note - The Promissory Note doesn't include a Bank Note or Currency Note.
3. Promise to pay - In the Promissory Note there must be a promise to pay. The information for existence of debt or the information for being a debtor is not sufficient. These statements may not be Promissory Notes: (a) I owe you (I.O.U.). (b) I am liable to pay you ₹5000/-. Such statements appear acknowledgement of debt and may be used as evidence.
4. Unconditional Promise - The promise to pay the money must be either unconditional or based on the happening of such a condition, happening of which is certain. A promise to pay the money within few days after the marriage of the promissor may not be considered as Promissory Note because it is also possible that he never marry.
5. Signature - The Promissory Note must be signed

by maker of the instrument, it will be irregular. The term 'Signature' includes also a mark or thumb impression. If a person can make his/her signature, he/she cannot be allowed to make his/her thumb impression. 6. Maker of the instrument must be certain - The maker of the Promissory Note must be a certain person. If a Promissory Note is signed/made by more than one person, then it is essential to clarify their liability i.e., joint or several liability. 7. Promise to pay certain amount - The amount promised to pay must be certain. Not only this, it must be in cash i.e., money only. If a person promises to pay the money along with any other thing i.e., cow, house, plot etc., it cannot be considered a Promissory Note. 8. Payee must be certain - The payee must also be a certain person. Secretary, President, Manager or an officer of any company or institution may be ascertained because the concerning officer holds a particular post in the company or institution, and thus, a Promissory Note written in favour of such persons is always regular and valid. A Promissory Note may be payable to bearer or order. 9. Other Characteristics - In addition to characteristics mentioned above, the date of making the instrument, place of payment or its number etc., are also written on the Promissory Note. But in their absence, the Promissory Note is not useless. If any other person becomes the surety for the payment of money mentioned in the Promissory Note, then validity of the Promissory Note is not affected. A Promissory Note must be written either on the stamp paper or required stamps must be affixed on the Promissory Note.

Distinction between Cheque and Promissory Note

S.No.	Cheque	Promissory Note
1	A cheque can be drawn only by the account holder of a bank.	It can be made by any person.
2.	In a cheque an order for payment is given to the bank.	In a promissory note there is a promise to pay.
3.	Cheque is payable always on demand.	It may be payable on demand or after a specified time.
4.	There are three parties, namely Drawer, Drawee and Payee.	There are two parties, namely, Maker and Payee.
5.	The drawer and payee may be the same.	The maker/drawer and payee may not be the same person.
6.	Three days of grace are not given in a cheque.	Three days of grace are given in promissory notes payable after a specified time.
7.	Stamps are not required to be affixed.	Stamps are required to be affixed.
8.	It can be crossed.	Crossing of the promissory note is not required.

Specimens of Promissory Notes

Rs. 6,000

Bangalore

16-05-2007

On demand I promise to pay Mr. Narendra Kumar or order a sum of Rs. Six Thousand only.

Sd./B.N. Mishra
Stamp

Rs. 1,000

Lucknow

03-03-2007

One month after date I promise to pay Sri R.C. Jauhari or order a sum of Rs. One thousand only with interest at the rate five per cent per annum

Sd./Ram Kumar
Stamp