

Ordinance Summary

The Negotiable Instruments (Amendment) Second Ordinance, 2015

- The Negotiable Instruments (Amendment) Second Ordinance, 2015 was promulgated on September 22, 2015. The Ordinance amends the Negotiable Instruments Act, 1881. The Act defines promissory notes, cheques and specifies penalties for bouncing of cheques, and other violations. It does not however specify the jurisdiction of courts where cheque bouncing cases may be filed.
- The Ordinance will be deemed to have been in force from June 15, 2015. It modifies the definition of a cheque in electronic form, and clarifies the appropriate area of jurisdiction of courts, where cases of cheque bouncing can be filed. Key features of the Ordinance include:
 - In the case of a cheque being dishonoured:
 - If the cheque is delivered for collection to the account of the payee (person who receives the cheque), the jurisdiction of courts lies over the area of the bank branch where the payee maintains an account, or
 - If the payee presents a cheque to a bank in any other way, the jurisdiction lies in the area of the bank branch where the drawer (person who writes the cheque) maintains an account.
 - All cases of cheque bouncing which were pending in any court, before the Ordinance came into force, will be transferred to a court with the appropriate jurisdiction.
- If the payee has filed a complaint against the drawer in a court with the appropriate jurisdiction, all subsequent complaints against that person regarding cheque bouncing will be filed in the same court. This will be irrespective of the mode of presentation of cheque.
- If more than one case is filed by the same payee against the same drawer before different courts, the case will be transferred to the court with the appropriate jurisdiction before which the first case was filed.
- The Ordinance also amends the definition of 'cheque in the electronic form'. Under the Act, this was defined as a cheque containing the exact mirror image of a paper cheque and generated in a secure system using a digital signature. The definition has been amended to mean a cheque drawn in electronic medium using any computer resource, which is signed in a secure system with a digital signature and asymmetric crypto system (pair of a public key and private key to create a digital signature), or electronic system.
- The definitions of 'computer resource', 'digital signature', 'electronic system' and 'asymmetric crypto system' are amended to be the same as those assigned to them in the Information Technology Act, 2000.

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