

## RBI ACT -1934

**SEC-2 (e) SCHEDULED BANK:** As per this section, a Scheduled bank means a bank whose name is included in the 2nd schedule of RBI Act 1934. The essential condition of capital is that, such banks have **paid-up capital and reserves of not less than Rs. 5 lac.** Bank which are not included in the 2nd Schedule of RBI are called Non-scheduled Bank.

**SEC. 17 TYPES OF BUSINESS:** Defines various types of business which RBI may transact, which include acceptance of deposit without interest from Central / State govt. purchase sale of forex, securities, rediscounting the bills, P/N, grant loans etc.

**SEC. 21 - RIGHT TO TRANSACT GOVT. BUSINESS:** RBI to transact Govt. business in India is. Remittance, exchange, keeping deposit free of interest etc.

**SEC. 22. BANK NOTES:** Sole right to issue bank notes

**SEC. 23 ISSUE DEPARTMENT** Bank notes shall be issued by Issue Dept. against security of gold coins, bullion, rupee coins, foreign securities & other approved securities up to Rs. 200 cr.

**SEC. 24 DENOMINATION OF NOTES** RBI issues all currency notes for denomination of 2, 5,10,20,50,100, 200, 500,1000,2000, 5000,10000

**SEC 28 - RULES FOR REFUNDING VALUE:** RBI can frame rules for refunding value of mutilated, soiled or imperfect notes as a matter of grate.

**SEC 29 – Bank Notes Exempted from Stamp Duty** under Indian Stamp Act

**SEC 31 - PROHIBITS ISSUE OF BEARER B/E, P/N PAYABLE TO BEARER:** no person in India other than RBI or the Central Govt. is authorized to draw, accept make or issue any bill of exchange, hundi, Promissory note, drafts payable to bearer.

**SEC 33 ASSETS OF THE ISSUE DEPARTMENT:** The assets of issue deptt. consists of gold coins, gold bullion, foreign securities etc. The aggregate value of gold coins, gold bullion, and foreign securities held as assets

and the aggregate value of the gold coins, and gold bullion shall not at any time be less than Rs 200 cr. and Rs 115 cr. respectively

**SEC 42(1) - CASH RESERVE RATIO (CRR):** Consequent to GOI's notification of Sec. of RBI (Amendment) Act 2006 minimum statutory floor and ceiling limit no longer exists. Further, no interest will be payable on CRR balances w.e.f. fortnight beginning 31 March 2007. CRR is maintained on fortnightly basis: Saturday to following Friday 14 days.

**SEC.45-A-F COLLECTING & FURNISHING OF CREDIT INFORMATION:**

Borrower enjoying secured credit limits of Rs. 10 lac and above unsecured limits of Rs. 5 lac & above: Return as on last Friday of April and Oct. every year. (Half yearly).

Doubtful, loss and suit filed accounts with aggregate of outstanding Rs. 100 lac and above: Half-yearly March and September.

Basic Statistical Return (BSR): BSR-1 regarding borrower a/cs of above Rs. 2 lac. BSR-II containing information about deposits with break-up into current, savings & term deposits.

**SEC. 45-H-T: Regulations relating NBFC**

**SEC 49 - PUBLICATION (DECLARATION OF BANK RATE)**

RBI shall make public from time to time the standard rate at which it is prepared to buy or re-discount B/E or other commercial paper eligible for purchase under this Act.

# BANKING REGULATION ACT 1949

**SEC. 5(A) APPROVED SECURITIES:** Such securities authorized by the Central Govt. or securities in which a trustee may invest money trust under Indian Trust Act 1882.

**SEC 5 (B) : BANKING:** Acceptance of deposit for the purpose of lending or investment, the deposits of money from the public repayable on demand or otherwise, and withdrawal by cheque, draft order or otherwise.

**SEC 7: USE OF WORDS - BANK, BANKER, BANKING OR BANKING COMPANY:** A Banking Co carrying on banking business in India must use the word 'bank', 'banker', 'banking company in its name. No other organisation permitted to use these names.

**SEC 9: DISPOSAL OF NON-BANKING ASSETS:** No bank shall hold any immovable property howsoever acquired except for its own use for any period exceeding 7 years.

**SEC 10: EMPLOYMENT OF MANAGING AGENTS** The period of office of an MD, whole time chairman cannot exceed 5 years at a time (may be renewed or extended by further periods not exceeding 5 years on each occasion).

**SEC 11: PAID UP CAPITAL AND RESERVE REQUIREMENT DOMESTIC BANKS** Minimum Paid up Capital and Reserves Rs 5 lac.  
**FOREIGN BANKS** Minimum Rs 15 Lac and Rs 20 Lac where bank has place of business in Bombay, or Calcutta of both).

**SEC 12: CAPITAL STRUCTURE** The ratio of authorised, subscribed and paid-up capital must be minimum 4:2:1.

**SEC 13 RESTRICTION ON COMMISSION, BROKERAGE DISCOUNT:** Bank not to pay commission, brokerage, discount, etc. more than 2.5% of the paid-up-value of one share.

**SEC 17(1): RESERVE FUND:** Stipulates that a bank must create reserve fund equivalent to not less than 20% of profits out of the balance of

profit of each year, before any dividend is declared (RBI has enhanced it to 25% of net profit w.e.f. 31 March 2001).

**SEC 19 (2):** No banking company shall hold shares in any company whether as pledgee, mortgagee or absolute owner of an amount exceeding 30% of paid up share capital of that company or 30% of its own paid-up capital and reserves, whichever is less.

**SEC 21: Control Over Advances by RBI**

**SEC 20: RESTRICTION ON ADVANCES AGAINST OWN SHARES:** No Banking Co grant loans / advances on the security of its own shares.

**SEC 21(A): RATE OF INTEREST CHARGED BY BANKS NOT TO BE SUBJECT TO SCRUTINY BY COURTS:** A transaction between the banking company and its debtor shall not be reopened by any court on the ground of excessive charging of rate of interest.

**SEC 22:** obtaining of license from RBI to open a bank is essential.

**SEC 23: RESTRICTION ON OPENING OF NEW AND TRANSFER OF EXISTING PLACE OF BUSINESS:** Prior permission of RBI is required for opening of new branch, sub-office, sub pay office, and extension counter etc. except for one month.

**SEC 24: MAINTENANCE OF SLR:** A Banking company is required to maintain at the close of business on any day a certain percentage of its total Net demand and time liabilities in India in form of cash, gold and **unencumbered** approved securities with reference to Total Net Demand and Time Liabilities as on last Friday of the second preceding fortnight. Min. Floor limit abolished and Maximum maintained.

**SEC 26: RETURN OF UNCLAIMED DEPOSITS:**

Every Bank shall within 30 days after the close of each calendar year submit a return to RBI on all deposit a/cs which have not been operated upon for 10 years (unclaimed accounts in case of FDR, this period will start from due date i.e. date of expiry of such fixed period.

The RBI has launched the Depositor Education and Awareness Fund (the Fund) Scheme 2014 DEAF), under which the amount to the credit of any a/c in India with any bank which has not been operated upon for a period of ten years or any deposit or any amount remaining unclaimed for more than ten years, shall be credited to the Fund, within a period of three months from the expiry of the period of ten years.

**SEC 29: ACCOUNTS & BALANCE SHEET:** Balance sheet and P&L a/c must be prepared as on last working day of March every year in format given in Schedule Iii of the Act.

**SEC 31: SUBMISSION OF RETURNS.** A/cs and B/s together with the auditor's report shall be published in the prescribed manner and 3 of the same shall be furnished to RBI within 3 months from the end of the period to which the B/S pertains.

**SEC 35: INSPECTION:** Empowers RBI to undertake inspection of banks.

**SEC 35 (A):** RBI has been given powers to give directions to the banks in the public interest or in the interest of banking policy.

**SEC 36 (AA) : POWERS TO REMOVE MANAGERIAL OR OTHER PERSONS:** Where the RBI is satisfied that in the public interest, RBI may remove from office any Chairman, Director or other officers or employees of the banking company,

**SEC 44 (A): AMALGAMATION OF BANKING COMPANIES:** Terms of amalgamation shall first be approved by general body by 2/3" majority in value and then by RBI.

**SEC 45(Y): PRESERVATION OF BANK RECORDS:** Central Govt in consultation with RBI has power to frame rules regarding preservation of books, a/cs and other documents.

**SEC 45 Z: RETURNS OF PAID INSTRUMENTS TO CUSTOMER**  
Guidelines for returning the paid instruments to **customer** by keeping a true copy.

**SEC 45 ZA: NOMINATION:** For nomination in Deposit accounts.

**SEC 45 ZC: NOMINATION:** For nomination in Safe Custody accounts.

**SEC 45 ZE: NOMINATION:** For nomination in Locker accounts.

**SEC 46: PENALTIES:** Whoever in any return, B/s or other documents willfully makes a statement which is false, or willfully omits to make a material statement, shall be punishable with imprisonment up to 3 years and shall also be liable to fine.

**SEC 47-A:** VIOLATION OF KYC RBI to impose penalty on banks for violation of KYC norms or non-reporting of frauds

## PAYMENT & COLLECTION OF CHEQUES

**TYPES OF NEGOTIABLE INSTRUMENTS:** Sec 13 defines only three types of Negotiable Instruments i.e.

Promissory Note, bill of exchange and Cheque payable either to order or to bearer

### **NEGOTIABLE INSTRUMENT AS PER CUSTOMS & USAGE:**

1)pay order/bank cheque	2) Govt P/N	3)Certificate of deposit
4) Commercial paper	5) treasury bills	6) hundi
7) Bill of lading	8)Railway receipts	9)Dock warrant
10)warehouse receipt	11)Delivery order	

The instruments mentioned above from Serial No 7 to 11 are also documents of title to goods under Sale of Goods Act.

### **TYPES OF NEGOTIABLE INSTRUMENTS:**

**PROMISSORY NOTE: (Sec. 4 NI Act).**

There are two types of P/N, a. Demand P/N, i.e. payable on Demand and Usance PIN, Payable after a pre-decided define period,

- Promissory Note required to be stamped as Indian Stamp Act (except 18%).
- Currency notes though fulfill the number of conditions of P/ N has been excluded from P/N as per Sec. 4 of NI Act.

### **BILL OF EXCHANGE (Sec. 5 of NI Act).**

A B/E may be a demand or usance. In case of cash sale in the commercial transactions, normally demand BE are drawn and in case of credit sales usance bills of exchange are drawn by the seller on the purchaser

### **CHEQUE:**

Section 6 of NI Act. A Cheque is a bill of exchange, drawn on a specified bank and not expressed to be payable otherwise than on demand. The Act covers Electronic Cheque is a cheque which contains the exact mirror image of a paper cheque, with the use of digital signatures.

### **DIFFERENT PARTIES**

	<b><u>P/N</u></b>	BoE	CHEQUE
NO OF PARTIES	Two	Three	Three

DRAWER	Debtor/Borrower	Creditor /seller	Debtor ,A/c Holder
DRAWEE	-	Debtor or buyer	Bank
PAYEE	Creditor	Person authorized to obtain payment	Person named in the cheque

### BASIC FEATURES OF NEGOTIABLE INSTRUMENTS

a) **Freely Transferable:** By mere Delivery, if payable to bearer (Sec. 47) and by endorsement and delivery if payable to order (Section 48).

b) Holder in due course gets title free from defects.

### DIFFERENCE BETWEEN HOLDER AND HOLDER IN DUE COURSE HOLDER

<u>ITEM</u>	<u>HOLDER Sec 8</u>	<u>HOLDER IN DUE COURSE Sec 9</u>
Consideration	Not essential	Essential
Actual possession	Not essential	Essential
Defective title	Will affect the instrument	Will not affect the instrument

### RIGHTS OF HOLDER

a) Holder can obtain a **duplicate** of the lost instrument (**Section 45-A**)



- b) Holder can **cross the cheque** if not already crossed, **convert a general crossing to a special crossing**, endorse and can negotiate, if the negotiation is not restricted
- c) Holder can sue in his own name in relation to the instrument
- d) Holder can complete an **inchoate instrument**,
- e) Holder can give proper discharge to the person making the payment

### **RIGHTS OF HOLDER IN DUE COURSE**

- **Every prior party to a negotiable instrument is liable** thereon to a holder in due course until the instrument is duly satisfied (Sec. 36)
- **If a bill is drawn payable to the drawer's order in a fictitious name**, the acceptor is not relieved from liability to any holder in due course, provided endorsement and the drawer's signatures are in the same handwriting (Sec. 42)
- If a bill of exchange or promissory note is negotiated to a holder in due course, the other parties to the instrument cannot escape liability on the ground that the delivery of the instrument was conditional or for a special purpose only (Sec. 46)

## **NEGOTIATION AND ENDORSEMENT**

**Negotiation**: Negotiation means transferring an instrument from one person to another in such a manner as to convey title and to constitute the transferee the holder thereof.

**Endorsement**: (Sec. 15 OF N.I. Act) Endorsement is made for the purpose of negotiation of a negotiable instrument, by the maker or holder of a

negotiable instrument, by signing on the face or backside of an instrument or on a slip of paper called 'allonge'.

