CHAPTER I - PRELIMINARY

1. Short title

2. [Repealed]

3. Interpretation clause

1. Short title

The Act shall be called the Negotiable Instruments Act, 1881. It shall extend to the whole of India and come into force on 1 March 1882, but it shall not affect local usage relating to instruments in an oriental language unless the instrument shows that the parties intend to be governed by this Act.

> This Act may be called the Negotiable Instruments Act, 1881.
>
> It extends to the whole of India; but nothing herein contained affects the Indian Paper Currency Act, 1871 (3 of 1871), section 21, local usage relating to any instrument in an oriental language:
>
> Provided that such usages may be excluded by any words in the body of the instrument, which indicate an intention that the legal relations of the parties thereto shall be governed by this Act; and it shall come into force on the first day of March, 1882.

Section 1 of the Negotiable Instruments Act, 1881 gives the Act its short title, sets out where it applies, and fixes the date it came into force. The Act extends to the whole of India. The words “except the State of Jammu and Kashmir” were dropped after the Jammu and Kashmir Reorganisation Act, 2019. The section also contains two savings. The first preserves s. 21 of the Indian Paper Currency Act, 1871, which reserved to the Government the issue of bearer notes payable on demand. That Act has long been repealed, and the restriction now appears in s. 31 of the Reserve Bank of India Act, 1934. The second saving, which matters more in practice, preserves local usage relating to instruments written in an oriental language, such as hundis in Hindi, Gujarati, Marathi or Urdu. Indigenous bankers developed their own customs for hundis long before the Act, for example the *shah-jog* hundi, payable only through a respectable person (*shah*), and the *darshani* hundi, payable on sight. Section 1 leaves those customs undisturbed, so wherever a proven local usage covers the point, it governs the hundi instead of the Act. A party relying on such a usage must prove that it exists. Where

none is proved, courts generally apply the principles of the Act. Under the proviso, the parties can exclude local usage by words in the body of the instrument showing that they intend their legal relations to be governed by the Act.

For example, a trader in Ahmedabad draws a *shah-jog* hundi in Gujarati on a merchant in Mumbai. If a dispute arises over who may present it for payment, the established usage of *shah-jog* hundis decides the matter rather than the Act's general rules on holders and payment, provided that usage is proved. If the same hundi stated in its body that "the rights of the parties hereto shall be governed by the Negotiable Instruments Act, 1881", the proviso would apply, local usage would be excluded, and the dispute would be decided under the Act like any ordinary bill of exchange.

3. Interpretation clause

The term "banker" shall include every person acting as a banker and every post office savings bank.

> In this Act--
>
> "Banker".--"banker" includes any person acting as a banker and any post office savings bank.

Section 3 of the Negotiable Instruments Act, 1881 defines "banker" for the purposes of the Act. Because it uses the word "includes", the definition is inclusive and not exhaustive. It covers everyone who would ordinarily be called a banker, such as banking companies and cooperative banks, and adds two further categories. The first is any person who actually performs the functions of a banker, typically accepting deposits from the public, repayable on demand and withdrawable by cheque, and lending or investing those funds. The test is what the person does, not their name or legal form. The second is any post office savings bank, which is expressly brought within the definition even though it is a government postal service and not a bank in the ordinary commercial sense. The definition matters because several provisions of the Act depend on it. A cheque is a bill of exchange drawn on a "specified banker" (s. 6). The rules on crossing of cheques (ss. 123 to 131) and the statutory protections for a paying banker (s. 85) and a collecting banker (s. 131) apply only to a "banker". The offence of dishonour of a cheque (s. 138) applies to a cheque drawn on an account

maintained with a “banker”. For example, A holds a savings account with a post office that offers a cheque facility and issues a cheque to B for ₹25,000. If the cheque is dishonoured for insufficient funds, A cannot argue that it is not a “cheque” because the post office is not a bank. Under s. 3, the post office savings bank is a “banker”, so the instrument is a valid cheque under s. 6, and B may take action under s. 138 in the same way as for a cheque drawn on a commercial bank.