CHAPTER X – OF REASONABLE TIME

105. Reasonable time

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105. Reasonable time

In determining a reasonable time for presentment, notice of dishonour and noting, regard shall be had to the nature of the instrument and the usual course of dealing with similar instruments, and public holidays shall be excluded.

> In determining what is a reasonable time for presentment for acceptance or payment, for giving notice of dishonour and for noting, regard shall be had to the nature of the instrument and the usual course of dealing with respect to similar instruments; and, in calculating such time, public holidays shall be excluded.

Section 105 of the Negotiable Instruments Act, 1881 explains how to measure “reasonable time” wherever the Act requires an act to be done within it. This covers presenting a bill for acceptance (s. 63), presenting an instrument for payment (ss. 66, 72 and 74), giving notice of dishonour (s. 106) and noting by a notary public (s. 99). The Act fixes no number of days for these acts, so the provision sets out two guiding factors. The first is the nature of the instrument: a cheque or demand bill is meant for prompt payment and calls for quick action, while a bill payable after sight may properly circulate longer before it is presented. The second is the usual course of dealing with similar instruments, meaning the ordinary practice of bankers and traders in handling them. In counting the time, public holidays (s. 25) are excluded. Section 106 adds that notice of dishonour is presumed reasonable if it is posted by the next business day. The test matters because delay can discharge parties who would otherwise be liable. The drawer is discharged under s. 84 to the extent of any loss caused by delay in presenting a cheque, and an indorser is discharged under s. 93 if notice of dishonour is not given in time. For example, A draws a cheque on Saturday in favour of B. Monday is a public holiday, and B presents the cheque on Wednesday. With the holiday excluded, and given the nature of a cheque and ordinary banking practice, presentment within a few working days is

reasonable. If the cheque is dishonoured on Wednesday and B posts notice to the indorser C on Thursday, the notice is in time. If B waits three weeks without any excuse, the delay is unreasonable, and C is discharged from liability on the cheque.

106. Reasonable time of giving notice of dishonour

Notice of dishonour shall be dispatched by the next post or on the day after dishonour where the parties are in different places, and shall be dispatched so as to reach on the day after dishonour where they are in the same place.

> If the holder and the party to whom notice of dishonour is given carry on business or live (as the case may be) in different places, such notice is given within a reasonable time if it is dispatched by the next post or on the day next after the day of dishonour.
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> If the said parties carry on business or live in the same place, such notice is given within a reasonable time if it is dispatched in time to reach its destination on the day next after the day of dishonour.

Section 106 of the Negotiable Instruments Act, 1881 sets a fixed standard for when notice of dishonour counts as given within a reasonable time. When a negotiable instrument is dishonoured, the holder must give notice of dishonour to the prior parties he wants to hold liable, such as the drawer and the endorsers (s. 93). Any party who is not given proper notice is discharged from liability. Section 105 requires the notice to be given within a reasonable time, and s. 106 sets out what that means, depending on where the parties are. If the holder and the person to be notified live or do business in different places, the notice is in time if the holder sends it by the next post or on the day after the dishonour. What matters here is when the notice is dispatched, not when it arrives. This fits s. 94, under which a notice that is properly addressed and posted stays valid even if the post delays or loses it. If both parties are in the same place, the rule is stricter: the notice must be sent early enough to reach the other party on the day after the dishonour. Notice given within these limits is conclusively in time. Notice given later is not automatically invalid, but the holder must then show that the delay was reasonable or excused (s. 98). For example, A in Kolkata draws a bill of exchange, and B in Patna endorses it. The bill is presented to the drawee in Patna on 10 March and dishonoured. The holder, C, is also in Patna. To

keep A liable, C must post the notice to A by the next post or on 11 March, and it makes no difference if postal delay means A receives it only on 14 March. To keep B liable, C must send the notice so that it reaches B on 11 March, because B is in the same city. If C sends B's notice only on 15 March and has no valid excuse, B is discharged, but A remains liable.

Section 106 covers notice of dishonour in general. It is separate from the 30-day demand notice that s. 138 of the same Act requires before a criminal complaint over a dishonoured cheque.

107. Reasonable time for transmitting such notice

A party who receives notice of dishonour shall pass it on to a prior party within the same time after receiving it as a holder would have had to give notice after dishonour.

> A party receiving notice of dishonour, who seeks to enforce his right against a prior party, transmits the notice within a reasonable time if he transmits it within the same time after its receipt as he would have had to give notice if he had been the holder.

Section 107 of the Negotiable Instruments Act, 1881 applies when a party to a dishonoured instrument, such as an endorser, receives notice of dishonour and wants to hold an earlier party liable. Section 93 allows such a party to give notice to prior parties, and Section 107 sets how much time that party has to do so. It creates no new time limit. Instead, it treats the party receiving notice as if he were the holder, so his time runs from when he received the notice, not from when the instrument was dishonoured. Under Section 106, where the parties live or carry on business in different places, a holder gives notice in reasonable time if he sends it by the next post or on the day after dishonour. Where they are in the same place, he must dispatch it in time to reach the other party on the day after dishonour. Public holidays are excluded in counting this time (s. 105). Each party down the chain therefore gets the same fresh period to pass the notice on, and notice counts as given in time even if the whole chain takes several days. A party who fails to send notice within this time cannot hold the prior party liable on the instrument, because a party who is not given due notice is discharged (s. 93). For example, a bill of exchange is endorsed by P to Q and by Q to R, who is the holder. The bill is dishonoured on Monday, and R posts notice to

Q on Tuesday. Q receives it on Wednesday and wants to recover from P, who lives in another city. Q gives notice in reasonable time if he posts it on Thursday, the day after he received it, just as R had to act on the day after dishonour. If P lived in the same town as Q, Q's notice would have to reach P on Thursday. If Q waits until the following Monday to send notice, P is discharged, and Q cannot recover from him on the bill.