

**OF NEGOTIABLE**

**INSTRUMENTS**

**ACT, 1881**

**LAW CAPSULE**

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**SECTION 138**

**Present status of Section 138 of the  
Negotiable Instruments Act, 1881 in  
India:**

Section 138 of the Negotiable Instruments Act, 1881 deals with the offence pertaining to dishonor of cheque for insufficiency, etc., of funds in the drawer's account on which the cheque is drawn for the discharge of any legally enforceable debt or other liability. Section 138 provides for penalties in case of dishonor of cheques due to insufficiency of funds in the account of the drawer of the cheque. The object of the Negotiable Instruments Act is to encourage the usage of the cheque and enhancing the credibility of the instrument so that normal business transactions and settlement of liabilities could be ensured.

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Various financial institutions and industry associations have expressed difficulties, arising out of the recent legal interpretation of the place of jurisdiction for filing cases under Section 138 to be the place of drawers' bank by the Supreme Court. To address the difficulties faced by the payee or the lender of the money in filing the case under Section 138 of the NI Act, because of which, large number of cases were stuck, the jurisdiction for offence under Section 138 has now been clearly defined. Therefore from now on, the filing of cases can only be in a court within whose local jurisdiction the bank branch of the payee, where the payee presents the cheque for payment, is situated. Further, where a complaint has been filed against the drawer of a cheque in the court having jurisdiction under the new scheme of jurisdiction, all subsequent complaints arising out of Section 138 against the same drawer shall be filed before the same court, irrespective of whether those cheques were presented for payment within the territorial jurisdiction of that court. Further, it has been provided that if more than one prosecution is filed against the same

drawer of cheques before different courts, when this fact is brought to the notice of the court, the court shall transfer the case to the court having jurisdiction as per the new scheme of jurisdiction.

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