

CIVIL LAW

Promissory note

Essentials:

1. It must be in writing. The writing may be on any paper or book, with pen or pencil. May be printed or typed.
2. It must contain a promise to pay. A mere acknowledgement of debts is not a promissory note (“I am liable to pay to B \$500” - not valid).

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3. The promise to pay must be unconditional. The promise to pay must not depend upon the happening of some uncertain event or fulfillment of condition. It must be absolute. If it contains a conditional promise, it is not a valid promissory note (Wrong – “I promise to pay B \$500 seven days after my marriage with C.”)

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4. It must be signed by the maker in any part of the instrument.
5. The maker must be a certain person.
6. The payee must be certain.
7. The sum payable must be certain.
8. The sum payable must be in national currency.

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Bill of exchange

Bill of exchange is an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain or to the bearer of the instrument.

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Parties:

1. Drawer – the person who makes the bill
2. Drawee – the person who is directed to pay
3. Payee – the person to whom the payment is to be made

The drawer or the payee in case of endorsement is called the “holder”. The holder must present the bill to the drawee for his acceptance when the drawee accepts the bill, by writing the words “accepted” and signs it, he is called the “acceptor”.

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Essentials:

1. It must be in writing
2. It must contain an order to pay
3. The order to pay must be unconditional
4. It must be signed by the drawer
5. The drawee must be certain person
6. The payee must be a certain person
7. The amount payable must be certain
8. The order must be to pay money only
9. It must also comply with the formalities as regards date, place, consideration, stamps, etc.

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Cheque

Cheque is a bill of exchange drawn on a specified banker and not expressed to be payable otherwise than on demand.

Parties:

1. Drawer – the person who draws the cheque
2. Drawee – the bank on which the cheque is drawn
3. Payee – the person to whom the cheque is made payable

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Features:

1. It is always drawn on a bank
2. It is always payable on demand