

# Iran Cheque Act of 2003

*Note: This translation is unofficial. We are not responsible for any errors or ambiguities. There may be updates not included in this version. The Iranian text always prevails.*

## **Article 1-** (appended on 2/11/1993) **Varieties of cheque include:**

1. Ordinary cheques which are drawn on banks by individuals and the payee of such cheques have no guarantee other than that of the drawer.
2. Certified cheques which are cheques drawn by individuals on the bank and their current accounts, the payment of these cheques are verified by the drawee banks.
3. Guaranteed cheques which are drawn by banks on themselves upon the request of the customer, and their payment is guaranteed by the bank.
4. Traveller cheques which are issued by banks and can be cashed at their branches or by their agents.

**Article 2-** Cheques drawn on banks that are established inside Iran in accordance with Iranian laws and also their aboard branches are considered as binding documents and if the payee should refer to the bank and should be unable to cash the whole or a portion of the cheque due to lack or insufficiency of funds that would lead to the bouncing of the cheque and not being paid, the payee can receive the amount of the cheque or the outstanding balance from the drawer based on respective laws and bylaws on official documents.

In order to have a writ of execution issued, the payee must submit the original cheque and the certificate stated in Article 4 or the certificate mentioned in Article 5 to the executions [department] of the local [department for] Registration of Deeds [and real estate].

The executions [department] of the [department for] Registration of Deeds [and real estate] will only order the execution if the signature sample of the drawer at the bank is certified by the bank.

The payee of the cheque includes the person to whose name the cheque is ordered or signed over to or the bearer of the cheque (in case of bearer cheque) or their legal representative.

## **Note legislated by the Expediency Decrement Council** (appended on 31/5/1988):

The payee may demand court to sentence the drawer to pay restitution for all damages and cost the payee has incurred in a direct and conventional way pursuing the payment of [his/her/its] claim, whether it is prior or subsequent to issuance of the verdict. If the payee should demand restitution for [his/her/its] damages and cost after the verdict is issued, [he/she/it] must submit [his/her/its] petition to the same court that has issued the verdict.

**Article 3-** (amended on 24/8/2003): At the maturation date of the cheque, the drawer of the cheque must have cash equal to the amount stated in the cheque at the drawee bank and must not withdraw from the bank the whole or part of the balance based on which the cheque is issued by any mean or order the payment of the cheque to be blocked, and also, the drawer must not write the cheque in a way that would lead to the bank not redeeming the cheque – causes such as signature mismatch, smudged writings or inconsistencies between the entries of the cheque.

If the cheque should contain conditions for redeeming it, the bank will disregard the conditions.

**Article 3 repeated-** (appended on 24/8/2003): A cheque is only redeemable from that bank on the maturity date stated on it or after.

**Article 4:** If due to reasons stated in Article 3 a cheque should not be redeemed, the bank is then obligated to clearly state the reason for not redeeming the cheque in a special signed and sealed sheet that contains the descriptions of the cheque and the identity and the full address of the drawer, and submit it to the payee.

In that sheet, the consistency or inconsistency of the signature on the cheque with the signature sample at the bank (within the banking convention) must be stated.

To notify the drawer, the bank is obligated to immediately dispatch a second copy of that sheet to the last address of the account holder known to the bank.

The above-mentioned sheet must contain the full name and the full address of the payee of the cheque.

**Article 5:** If the balance of the drawer's account at the bank should fall short of the amount of the cheque, on the payee's request the bank is obligated to pay the existing balance to the payee, and by writing the amount received on the back of the cheque and submitting it to the bank, the payee will receive a certificate from the bank which includes the descriptions of the cheque and the amount paid. For its outstanding balance, the cheque will be considered dishonoured and in that regard the bank's certificate will substitute the original cheque for the payee.

With respect to this article, the bank is as well obligated to dispatch the notice mentioned in the previous article to the holder of the account.

**Article 6:** Banks are required to state the full name of the account holder on each cheque.

**Article 7-** (amended on 24/8/2003): Anyone who commits cheque crimes will be sentenced as follows:

1. If the amount of cheque is less than ten million Rials will be sentenced to a maximum of six months.
2. If the amount of cheque is between ten and fifty million Rials will be sentenced to between six months to one year.
3. If the amount of cheque is less than fifty million Rials will be sentenced to between one and two years, prohibited from having a cheque book for two years and if the

drawer has attempted to issue multiple non-sufficient cheques the total amounts stated in cheques will be the basis for action.

**Note** (appended on 24/8/2003): This penalty does not include instances where it is proven that the non-sufficient funds were drawn for illegitimate transactions or usury interest.

**Article 8** (amended on 2/11/1993): In penal terms, cheques drawn in Iran on banks outside Iran are subject to the rules of this act.

**Article 9:** The drawer cannot be prosecuted if he/she/it pays cheque's amount to the payee in cash prior to the date of the criminal lawsuit or reaches an agreement with the private claimant about the payment or make arrangements for payment at the drawee bank.

**Article 10** (amended on 2/11/1993): If anyone should attempt to issue a cheque knowing that his/her/its bank account is blocked, his/her/its action will be considered to be the same as issuing an insufficient fund cheque and will be punishable by the maximum penalty stipulated in Article 7 and the penalty set cannot be suspended."

**Article 11:** Offense listed in this act cannot be prosecuted without legal action by the payee and if the payee should fail to refer to the bank to cash the cheque after six months from the cheque's date of issue, he/she/it will no longer have the right to criminal lawsuit. In this article, "payee" refers to the person who has submitted the cheque to the bank for the first time.

In order to determine who has first taken the cheque to the bank, banks are required to state his or her full identity on the back of the cheque along with date.

The person to whom the cheque is transferred after it has been returned by the bank will not have the right to file criminal lawsuit unless the transfer is by force.

If the payee of the cheque should choose to cash the cheque through another person as his/her/its representative and preserve his/her/its right to take legal action will in case the cheque, he/she/it should state his/her/its identity, address and representation on the back of the cheque; in that case, the bank will issue the notice [certificate] mentioned in Articles 4 and 5 to the payee's name and the payee's right to take legal action will be preserved.

**Note:** In case after filing the lawsuit the claimant of the cheque should transfer the cheque to another person [entity] or transfer his/her/its rights to another entity in any other way, the criminal prosecution will cease.

**Article 12** (amended on 24/8/2003) In case of remission by the plaintiff prior to issuance of final verdict, or in case the defendant should pay the amount of cheque and the penalty for delayed payment in cash or make arrangements for payment of the sum of the cheque and the penalty (from the date of submission of the cheque to the bank) or pay those sums to the judiciary's cashier with execution of registration, the examining authority will issue an interlocutory order. Issuance of interlocutory order by the criminal court will not

prevent the court from investigating and passing sentence with regard to other damages claimed.

In case of remission by the plaintiff subsequent to issuance of final verdict, in which case execution of the sentence will cease and the judgment debtor will be only obligated to pay an equivalent of one third of the fine subject to the sentence which by the prosecutor's order will be appropriated by the government.

**Note** (appended on 24/8/2003) The amount of damages and method of calculating it will be based on the Expediency Decrement Council's law on appending one note to Article 2 of the Act of Amending Parts of the Cheque Issuance Act of 31/5/1988.

**Article 12** (amended on 24/8/2003): In following instances the drawer cannot be prosecuted:

1. If it is proven that the cheque was signed blank
2. If in the contents of the cheque it is stated that a condition must be met before it can be cashed.
3. If in the contents of the cheque it is stated that it is guarantee for carrying out a transaction or guarantee for an obligation.
4. If it is proven that despite not being stated in the contents of the cheque, a condition had to be met before it could be cashed or the cheque is issued as guarantee for carrying out a transaction or guarantee for an obligation.
5. If it is proven that the cheque is issued without a date or if the date on the cheque is superseded by its actual date of issue.

**Article 14-** (amended on 2/11/1993): The drawer of the cheque, the benefactor or their legal representative can formally order the bank to not redeem the cheque by declaring that the cheque has been lost, stolen, forged or has been obtained through fraud, fraudulent conversion or other criminal acts. After verifying the identity of the entity that has issued the order, the bank will abstain from redeeming the cheque and if the cheque is presented to the bank, the bank will issue and submit a rejected payment certificate which includes the declared justification.

The payee of the cheque can file a lawsuit against the entity that has ordered the payment to be blocked and if contrary of the claim which has caused blocked payment is proven, in addition to penalties set in Article 7 of this act, the drawer will be sentenced to pay for all damages to the payee.

**Note 1** (appended on 4/1/1998): In this article, the payee is the individual in whose name the cheque is written, endorsed or transferred to (or has been given a bearer cheque). In cases where the order to block payment is issued as per this article, the bank is required to maintain the amount of cheque in a blocked account until it is decided upon by the examining authority or withdrawal of the order by the entity that has issued the order.

**Note 2** (appended on 2/11/1993): After declaring to the bank, the entity issuing the order is required to submit his/her/its petition to judicial authorities and submit the certificate for submission of petition to the bank within one week, otherwise subsequent to the expiry of

that period, upon request by the payee the bank will redeem the cheque from the balance of the account.

**Note 3** (appended on 4/1/1998): Payment of guaranteed and traveller cheques cannot be blocked unless the issuing bank claim that they are counterfeits. In such cases as well the payee's right to file a lawsuit with judicial authorities in accordance with the latter part of Article 14 is preserved.

**Article 15:** The payee can demand the cheque's amount and [restitution] for his/her/its damages and losses at the examining court.

**Article 16:** Investigation of all cheque related petitions and criminal and legal lawsuits will be carried out in prosecutors' offices and courts until the conclusion of proceedings, immediately and out of turn.

**Article 17:** The cheque being drawer's possession is confirmation that its sum has been paid and that the claimant has withdrawn the petition, unless otherwise is proven.

**Article 18** (amended on 24/8/2003): In case of conviction, as per laws set by Article 134 of the Public Courts' and Revolutionary Courts' Code of Procedure (in criminal affairs) – passed on 19/9/1999 [by] the Judicial Committee of the Islamic Consultative Assembly – based on instance, the examining authority of non-sufficient fund cheques related crimes will issue a writ of attachment or bail for the accused (including cash, bank guarantee or movable or immovable assets).

**Article 19:** If the cheque is issued through power of attorney or representation of the account holder – whether legal entity or natural person – the drawer and the endorser will be jointly responsible to pay the amount of the cheque and execution and verdict of damages will be issued against both of them based on their joint liability. Furthermore, based on the laws of this act, the endorser of the cheque will be criminally liable unless he/she/it can prove that the payment was not made based on the action of the holder of the account or his/her/its attorney or next representative, in which case the entity that has caused the payment not to be made will be criminally liable.

**Article 20:** The civil liability of the endorsers of the cheque will remain based on respective laws.

**Article 21-** (amended on 3/11/1993): Banks are obligated to close the current accounts of individuals who have issued non-sufficient fund cheques more than once and the prosecution of whom has resulted in issuance of bill indictment, and not open current accounts for them for three years.

Based on instance and by consideration the conditions, facilities and frequency and degree of the offence, branch managers who disregard the above-mentioned obligation will be sentenced to penalties listed in Article 9 of the Administrative Offences Act by the Committee for Investigation of Administrative Offences.

**Note 1** (appended on 2/11/1993): The Central Bank of the Islamic Republic of Iran is obligated to maintain an orderly and organised record of those who have issued non-sufficient fund cheques and in execution of this act supply all banks of the nation with a list of their names.

**Note 2** (appended on 2/11/1993): The laws and regulations regarding depriving individual from [the right to] open current accounts and the manner of responding to bank enquiries will be based on bylaws which will be created by the Central Bank of the Islamic Republic of Iran and approved by the government cabinet.

**Article 22** (amended on 24/8/2003): In case the accused cannot be reached, the accused's last address at the drawee bank will be considered as the accused's legal residence and all notifications will be dispatched to that address.

If the accused cannot be found at the bank address or the determined address or such address should be non-existent, the testimony of the agent [officer] will be considered as declaration of the notice and the examination of the accused will carry on without the need to summon the accused via press.

**Article 23:** The cheque Act of May 1965 is abolished.