

Description: Articles regarding the issue and Form of a Bill of Exchange.

## CHAPTER I - Issue and Form of a Bill of Exchange

## Articles 1 - XII (Omitted) TITLE I - Bills of Exchange

## Article 1 - A bill of exchange contains:

1. The term 'bill of exchange' inserted in the body of the instrument and expressed in the language employed in drawing up the instrument
2. An unconditional order to pay a determinate sum of money
3. The name of the person who is to pay (drawee)
4. A statement of the time of payment
5. A statement of the place where payment is to be made
6. The name of the person to whom or to whose order payment is to be made
7. A statement of the date and of the place where the bill is issued
8. The signature of the person who issues the bill (drawer)

## Article 2

An instrument in which any of the requirements mentioned in the preceding Article is wanting is invalid as a bill of exchange, except in the cases specified in the following paragraphs:

A bill of exchange in which the time of payment is not specified is deemed to be payable at sight.

In default of special mention, the place specified beside the name of the drawee is deemed to be the place of payment, and at the same time the place of the domicile of the drawee.

A bill of exchange in which the drawee does not mention the place of issue is deemed to have been drawn in the place mentioned beside the name of the drawer.

## Article 3

A bill of exchange may be drawn payable to drawee's order. It may be drawn on the drawer himself. It may be drawn for account of a third person.

## Article 4

A bill of exchange may be payable at the domicile of a third person either in the locality where the drawee has his domicile or in another locality.

## Article 5

A bill of exchange is payable at sight, or at a fixed period after sight, the drawer may stipulate that the sum payable shall bear interest. In the case of any other bill of exchange, this stipulation is deemed not to be written (non Scrite).

The interest runs from the date of the bill of exchange, unless some other date is specified.

## Article 6

When the sum payable by a bill of exchange is expressed in words and also in figures, and there is a discrepancy between the two, the sum denoted by the words is the amount payable. Where the sum payable by a bill of exchange is expressed more than once in words or more than once in figures, and there is a discrepancy, the smaller sum is the sum payable.

## Article 7

If a bill of exchange bears signatures of persons incapable of binding themselves by a bill of exchange or forged signatures, or signatures of fictitious persons, or signatures which for any other reason cannot bind the persons who signed the bill of exchange or on whose behalf it was signed, the obligations of the other persons who signed are none the less valid.

## Article 8

Whoever puts his signature on a bill of exchange as representing a person for whom he had no power to act is bound himself as a party to the bill and, if he pays, has the same rights as the acceptor for whom he purported to act. It may be endorsed and guaranteed by a bill of exchange which has exceeded its powers.

## Article 9

The drawer guarantees both acceptance and payment. He may release himself from guaranteeing acceptance - every stipulation by which he releases himself from the guarantee of payment is deemed not to be written (non Scrite).

## Article 10

If a bill of exchange, which has been completed when issued, has been completed otherwise than by the drawer, the drawer is not bound to accept it, and the person who has completed it may not be set up against the holder unless he has acquired the bill of exchange in bad faith or, if acquiring it, has been guilty of gross negligence.

## CHAPTER V - Endorsement

## Article 11

Every bill of exchange, even if not expressly drawn to order, may be transferred by means of endorsement in the following manner:

When the drawer has inserted in a bill of exchange the words 'to the order' or an equivalent expression, the instrument can only be transferred according to the form, and with the effects of ordinary assignment.

The bill may be endorsed even in favour of the drawee, whether he has accepted or not, or of the holder, or of any other party to the bill. These persons may re-endorse the bill.

## Article 12

An endorsement must be unconditional. Any condition to which it is made subject is deemed not to be written (non Scrite). A partial endorsement is null and void. An endorsement to conditions is equivalent to an endorsement in blank.

## Article 13

An endorsement must be written on the bill of exchange or on a slip affixed thereto (allonge). It may be signed by the endorser.

The endorser may leave the beneficiary unspecified or may consist simply of the signature of the endorser (endorsement in blank). In the latter case, the endorsement, to be valid, must be written on the bill of exchange or on a slip affixed thereto (allonge).

## Article 14

An endorsement transfers all the rights arising out of a bill of exchange. If the endorsement is in blank, the holder may:

1. Fill up the blank either with his own name or with the name of some other person
2. Re-endorse the bill in blank, or to some other person
3. Transfer the bill to a third person without filling up the blank, and without endorsing it.

## Article 15

The absence of any contrary stipulation, the endorser guarantees acceptance and payment. He may prohibit any further endorsement.

## Article 16

The possessor of a bill of exchange is deemed to be the lawful holder if he establishes his title to the bill through an uninterrupted series of endorsements, even if the last endorsement is in blank. In this connection, cancelled endorsements are deemed not to be written (non Scrite).

If an endorsement in blank is followed by another endorsement, the person who signed the first endorsement is deemed to have acquired the bill by the endorsement in blank.

Where a person has been dispossessed of a bill of exchange, in any manner whatsoever, the holder who establishes his right thereto in the manner mentioned in the preceding paragraph is not bound to give up the bill unless he has acquired it in bad faith, or unless in acquiring it he has been guilty of gross negligence.

## Article 17

Persons sued on a bill of exchange cannot set up against the holder defences which could be set up against the endorser.

The inaction contained in an endorsement by procuration does not terminate by reason of the death of the party giving the mandate or by reason of his becoming legally incapable.

## Article 18

When an endorsement contains the statements 'value in collector' (valeur en recouvrement), 'value in receipt' (valeur en gage), or 'value in procuration' (valeur en procuration) or any other phrase implying a simple mandate, the holder may exercise all rights arising out of the bill of exchange, and he can only endorse it in his capacity as agent.

In this case, the parties liable cannot set up against the holder defences which could be set up against the endorser.

The inaction contained in an endorsement by procuration does not terminate by reason of the death of the party giving the mandate or by reason of his becoming legally incapable.

## Article 19

When an endorsement contains the statements 'value in receipt' (valeur en gage), 'value in pledge' (valeur en gage), or any other statement implying a pledge, the holder may exercise all the rights arising out of the bill of exchange, but an endorsement by him has the effects only of an endorsement by an agent.

The parties liable cannot set up against the holder defences founded on their personal relations with the endorser, unless the holder, in receiving the bill, has knowingly acted to the detriment of the debtor.

## Article 20

An endorsement after maturity has the same effects as an endorsement before maturity. Nevertheless an endorsement after protest for non-payment, or after the expiration of the limit of time fixed for drawing up the protest, operates only as an ordinary assignment.

Failing proof to the contrary, an endorsement without date is deemed to have been placed on the bill before the expiration of the limit of time fixed for drawing up the protest.

## CHAPTER III - Acceptance

## Article 21

Until maturity, a bill of exchange may be presented to the drawee for acceptance at his domicile, either by the holder or by a person who is merely in possession of the bill.

## Article 22

In a bill of exchange, the drawer may stipulate that it shall be presented for acceptance with or without fixing a limit of time for presentation.

Except in the case of a bill payable at the address of a third party or in a locality other than the domicile of the drawee, or, except in the case of a bill drawn payable at a fixed period after sight, the drawer may prohibit presentation for acceptance.

He may so stipulate that presentation for acceptance shall not take place before a named date.

Unless the drawer has prohibited acceptance, every endorser may stipulate that the bill shall be presented for acceptance, with or without fixing a limit of time for presentation.

## Article 23

Bills of exchange payable at a fixed period after sight must be presented for acceptance within one year of their date. The drawer may abridge or extend this period. These periods may be abridged by the endorsers.

## Article 24

The drawer may demand that a bill shall be presented to him a second time on the day after the first presentation. Parties interested are not allowed to set up that this demand has not been complied with unless this request is mentioned in the protest.

The holder is not obliged to surrender to the drawee a bill presented for acceptance.

## Article 25

An acceptance is written on the bill of exchange. It is expressed by the word 'accepted' or any other equivalent term. It is signed by the drawee. The simple signature of the drawee on the face of the bill constitutes an acceptance.

When the bill is payable at a certain time after sight, or when it must be presented for acceptance within a certain limit of time in accordance with a special stipulation, the acceptance must be dated as of the day when the acceptance is given, unless the holder requires it shall be dated as of the date of presentation. If it is undated, the holder, in order to preserve his rights of recourse against the endorser and the drawer, must authenticate the omission by a protest drawn up within the proper time.

## Article 26

An acceptance is unconditional, but the drawee may restrict it to part of the sum payable. Every other modification introduced by an acceptance into the tenor of the bill of exchange operates as a refusal to accept. Nevertheless, the acceptor is bound according to the terms of his acceptance.

## Article 27

When the drawer of a bill has indicated a place of payment other than the domicile of the drawee without specifying a third party at whose address payment must be made, the drawer may name such third party at the time of acceptance. In default of this indication, the acceptor is deemed to have undertaken to pay the bill himself at the place of payment.

If a bill is payable at the domicile of the drawee, the latter may in his acceptance indicate an address in the same place where payment is to be made.

## Article 28

By accepting, the drawee undertakes to pay the bill of exchange at its maturity. In default of payment, the holder, even if he is the drawer, has a direct action on the bill of exchange against the acceptor for all that can be demanded in accordance with Articles 48 and 49.

## Article 29

Where the drawee who has put his acceptance on a bill has cancelled it before restoring the bill, acceptance is deemed to be refused. Failing proof to the contrary, the cancellation is deemed to have taken place before the bill was restored.

Nevertheless, if the drawee has notified his acceptance in writing to the holder or to any party who has signed the bill, he is liable to those parties according to the terms of his acceptance.

## CHAPTER IV - 'Aval'

## Article 30

Payment of a bill of exchange may be guaranteed by an 'aval' as to the whole or part of its amount.

This guarantee may be given by a third person or even by a person who has signed as a party to the bill of exchange.

## Article 31

The 'aval' is given either on the bill itself or on an 'allonge'.

It is expressed by the words 'good as aval' (bon pour aval) or by any other equivalent formula. It is signed by the giver of the 'aval'.

It is deemed to be constituted by the mere signature of the giver of the 'aval' placed on the face of the bill, except in the case of the signature of the drawer or of the drawee.

An 'aval' must specify for whose account it is given. In default of this it is deemed to be given for the drawer.

## Article 32

The giver of an 'aval' is bound in the same manner as the person for whom he has become guarantor.

His undertaking is valid even when the liability which he has guaranteed is inoperative for any reason other than defect of form.

He has, when he signs a bill of exchange, the rights arising out of the bill of exchange against the person guaranteed and against those who are liable to the letter on the bill of exchange.

## CHAPTER V - Maturity

## Article 33

A bill of exchange may be drawn payable:

1. At sight
2. At a fixed period after sight
3. At a fixed period after date

## Article 34

Bills of exchange at other maturities or payable by instalments are null and void.

## Article 35

A bill of exchange at sight is payable on presentation. It must be presented for payment within a year of its date. The drawer may abridge or extend this period. These periods may be abridged by the endorsers.

The drawer may prescribe that a bill of exchange payable at sight must not be presented for payment before a named date. In this case, the period for presentation begins from the said date.

## Article 36

The maturity of a bill of exchange payable at a fixed period after sight is determined either by the date of the acceptance or by the date of the protest.

In the absence of the protest, an undated acceptance is deemed, so far as regards the acceptor, to have been given on the last day of the limit of time for presentation for acceptance.

## Article 37

When a bill of exchange is drawn at one or more months after date or after sight, the bill matures on the corresponding date of the month when payment must be made. If there be no corresponding date, the bill matures on the last day of that month.

When a bill of exchange is drawn at one or more months and a half after date or sight, entire months must first be calculated.

If the maturity is fixed at the commencement, in the middle (mid-January or mid-February, etc.) or at the end of the month, the first, fifteenth or last day of the month is to be understood.

The expressions 'eight days' or 'fifteen days' indicate not one or two weeks, but a period of eight or fifteen actual days.

The expression 'half month' means a period of fifteen days.

## Article 38

When a bill of exchange is payable on a fixed day in a place where the calendar is different from the calendar in the place of issue, the day of maturity is deemed to be fixed according to the calendar of the place of payment.

When a bill of exchange drawn between two places having different calendars is payable at a fixed period after date, the day of issue is referred to the corresponding day of the calendar in the place of payment, and the maturity is fixed accordingly.

The time for presenting bills of exchange is calculated in accordance with the rules of the preceding paragraph.

These rules do not apply if a stipulation in the bill or in the simple terms of the instrument indicates an intention to adopt some different rule.

Bills of exchange at other maturities or payable by instalments are null and void.

## CHAPTER VI - Payment

## Article 39

The holder of a bill of exchange payable on a fixed day or at a fixed period after date or after sight must present the bill for payment either on the day on which it is payable or on one of the two business days which follow.

The presentation of a bill of exchange at a clearing-house is equivalent to a presentation for payment.

## Article 40

The drawee who pays a bill of exchange may require that it shall be given up to him received by the holder.

The holder may not refuse partial payment.

In case of partial payment the drawee may require that mention of this payment shall be made on the bill, and that a receipt therefor shall be given to him.

## Article 41

The holder of a bill of exchange cannot be compelled to receive a payment thereof before maturity.

The drawee who pays before maturity does so at his own risk and peril. He who pays at maturity is validly discharged, unless he has been guilty of fraud or gross negligence, and he is bound to verify the regularity of the series of endorsements, but not the signature of the endorsers.

## Article 42

When a bill of exchange is drawn payable in a currency which is not that of the place of payment, the sum payable may be paid in the currency of the country, according to its value on the day of maturity. If the debtor is in default, the holder may at his option demand that the amount of the bill be paid in the currency of the country according to the rate on the day of maturity or the day of payment.

The usages of the place of payment determine the value of foreign currency. Nevertheless, the drawer may stipulate that the sum payable shall be calculated according to a rate expressed in the bill.

The foregoing rules shall not apply to the case in which the drawer has stipulated that payment must be made in a certain specified currency (stipulation for effective payment in foreign currency).

If the amount of the bill of exchange is denominated in a currency having the same denomination, but a different value in the country of issue and the country of payment, reference is deemed to be made to the currency of the place of payment.

## Article 43

When a bill of exchange is not presented for payment within the limit of time fixed by Article 38, every debtor is authorised to deposit the amount with the competent authority at the charge, risk and peril of the holder.

## CHAPTER VII - Recourse for Non-Acceptance or Non-Payment

## Article 44

The holder may exercise his right of recourse against the endorsers, the drawer and the other parties liable:

At maturity:

If payment has not been made:

Even before maturity:

1. If there has been total or partial refusal to accept
2. In the event of the bankruptcy (faillite) of the drawee, whether he has accepted or not, or in the event of a stoppage of payment on his part, even when not declared by a judgement, or when execution has been levied against his goods without result.
3. In the event of the bankruptcy (faillite) of the drawer of a non-acceptance bill.

## Article 45

Default of acceptance or on payment must be evidenced by an authentic act (protest for non-acceptance or non-payment).

Protest for non-acceptance must be made within the limit of time fixed for presentation for acceptance. If in the case contemplated by Article 24, paragraph 1, the first presentation takes place on the last day of that time, the protest may nevertheless be drawn up on the next day.

Protest for non-payment of a bill of exchange payable on a fixed day or at a fixed period after date or sight must be made on one of the two business days following the day which the bill is payable. In the case of a bill payable at sight, the protest must be drawn up under the conditions specified in the foregoing paragraph for the drawing up of a protest for non-acceptance.

Protest for non-acceptance dispenses with presentation for payment and protest for non-payment.

If there is a stoppage of payment on the part of the drawee, whether he has accepted or not, or if execution has been levied against his goods without result, the holder cannot exercise his right of recourse until after presentation of the bill to the drawee for payment and until the protest has been drawn up.

If the drawee, whether he accepted or not, is declared bankrupt (faillite) or, in the event of the declared bankruptcy of the drawer of a non-acceptable bill, or in the event of the judgement declaring the bankruptcy suffices to enable the holder to exercise his right of recourse, in particular cases of non-acceptance or non-payment.

## Article 46

The holder must give notice of non-acceptance or non-payment to his endorser and to the other parties liable, and to the drawee, if he has a protest or, in case of stipulation 'retour sans frais', the day for presentation. Every endorser must, within the two business days following the day on which he receives notice, notify the endorser of the notice he has received, mentioning the names and addresses of those who have given the previous notices, and so on through the series until the drawer is reached. The periods mentioned above run from the receipt of the preceding notice.

When, in conformity with the preceding paragraph, notice is given to a person who has signed a bill of exchange, the same notice must be given within the same limit of time to his assignee, when an endorser either has not specified his address or has specified it in an illegible manner, it is sufficient that notice should be given to the preceding endorser.

A person who must give notice may give it in any form whatever, even by simply returning the bill of exchange.

He must prove that he has given notice within the time allowed. This time-limit shall be regarded as having been observed if a letter giving the notice has been posted within the time allowed.

A person who does not give notice within the limit of time mentioned above does not forfeit his rights. He is responsible for the injury, if any, caused by his negligence, but the damages shall not exceed the amount of the bill of exchange.

## Article 47

The drawer, an endorser, or a person guaranteeing payment by aval (avaliseur) may, by the stipulation 'retour sans frais', 'sans protest', or any other equivalent expression written on the instrument and signed, release the holder from having a protest of non-acceptance or non-payment drawn up in order to exercise his right of recourse.

This stipulation does not release the holder from presenting the bill within the prescribed time, or from the notices he has to give. The burden of proving the non-observance of the limits of time lies on the person who seeks to set up against the holder.

If the stipulation is written by the drawer, it is operative in respect of all persons who have signed the bill.

## Article 48

All drawers, acceptors, endorsers or guarantors by aval of a bill of exchange are jointly and severally liable to the holder. The holder has the right of proceeding against all these persons individually or collectively without being required to observe the order in which they have become bound.

The same right is possessed by any person signing the bill who has taken it up and paid it. Proceedings against one of the parties liable do not prevent proceedings against the others, even though they may be subsequent to the party first proceeded against.

## Article 49

The holder may recover from the person against whom he exercises his right of recourse:

1. The amount of the unaccepted or unpaid bill of exchange with interest, if interest has been stipulated for
2. Interest at the rate of 6 per cent from the date of maturity
3. The expenses of protest and of the notices given as well as other expenses.

If the right of recourse is exercised before the maturity of the bill, the sum shall be subject to a discount. This discount shall be calculated according to the official rate of discount (bank-rate) ruling on the date when recourse is exercised at the place of domicile of the holder.

## Article 50

A party who takes up and pays a bill of exchange can recover from the parties liable to him:

1. The entire sum which he has paid
2. Interest on the said sum calculated at the rate of 6 per cent, starting from the day when he made payment
3. Any expenses which he has incurred.

Every party liable against whom a right of recourse is or may be exercised, can require against payment, that the bill shall be given up to him with the protest and a receipt accorded.

Every endorser who has taken up and paid a bill of exchange may cancel his own endorsement and those of subsequent endorsers.

## Article 51

In the case of the exercise of the right of recourse after a partial acceptance, the party who pays the sum in respect of which the bill has not been accepted can require that this payment shall be specified on the bill and that he shall be given a receipt therefor. The holder must also give him a certified copy of the bill, together with the protest, in order to enable subsequent recourse to be exercised.

## Article 52

Every person having the right of recourse may, in the absence of agreement to the contrary, reimburse himself by means of a fresh bill (redraft) if he is drawn off all or one of the parties liable to him and payable at the domicile of that party.

The redraft includes, in addition to the sums mentioned in Articles 48 and 49, brokerage and the cost of stamping the redraft.

If the redraft is drawn by the holder, the sum payable is fixed according to the rate for a sight bill drawn at the place where the original bill was payable upon the party liable at the place of his domicile. If the redraft is drawn by an endorser, the sum payable is fixed according to the rate for a sight bill drawn at the place where the drawer of the redraft is domiciled upon the place of domicile of the party liable.

## Article 53

After the expiration of the limits of time fixed:

For the presentation of a bill of exchange drawn at sight or at a fixed period after sight:

For drawing up the protest for non-acceptance or non-payment:

For presentation for payment in the case of a stipulation 'retour sans frais', the holder loses his rights of recourse against the endorsers, against the drawer and against the other parties liable, with the exception of the acceptor.

In default of presentation for acceptance within the limit of time stipulated by the drawer, the holder loses his right of recourse for non-payment, as well as for non-acceptance, unless it appears from the terms of the stipulation that the drawer only meant to release himself from the guarantee of acceptance.

If the stipulation for a limit of time for presentation is contained in an endorsement, the endorser alone can avail himself of it.

## Article 54

Should the presentation of the bill of exchange or the drawing up of the protest within the prescribed limits of time be prevented by an insurmountable obstacle (legal prohibition (prescription (Sgae) by any State or other case of vis major), these limits of time shall be extended. The holder is bound to give notice without delay of the case of vis major to his endorser and to specify