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A Bounced Cheque in Thailand: When It Is a Crime and When It Is Only a Debt

Not every dishonoured cheque in Thailand is a criminal matter. The offence arises only where the cheque paid a debt that genuinely exists and is legally enforceable. This article covers the elements of Cheque Act, Section 4, why a cheque given as security falls outside them, how the three-month period runs from the bank refusal, and why the return slip matters most.

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The e-book edition of the article at https://dap-resolution.com/en/insights/bounced-cheque/

A cheque the bank refuses to pay does not automatically become a criminal case in Thailand. The law sets conditions first, and the decisive one is usually overlooked. It is not whether funds were in the account, but the purpose for which the cheque was issued.

Whoever understands the distinction knows from day one which track the matter is on, what to preserve, and which time limits are running. Others hold the cheque for months believing there is no hurry, or assume that no offence means no remedy. Neither belief is correct.

In this article I will explain, in plain terms, the elements of the offence under Section 4 of the Act on Offences Arising from the Use of Cheques B.E. 2534 (1991), why a cheque handed over as security does not engage it, why the three-month period runs from the bank's refusal, what remains available on the civil side, and what to do with the bank return slip.

Chapter 1

Not Every Bounced Cheque Is a Crime (The First Assumption to Correct)

The Act in force does not punish the bare fact that an account held insufficient funds. It punishes using a cheque in a way that leads a creditor to expect payment where the drawer intended otherwise.

The difference lies in a short phrase: a debt that genuinely exists and is legally enforceable. That phrase is an element, and without it there is no offence, whatever the balance was and even if the account had been closed. This is why many cheque prosecutions end in dismissal.

Chapter 2

The Elements of Cheque Act, Section 4 (Four Layers, All Required)

Statutory authority for this section[1]

1. A debt existed beforehand, and the cheque was issued to pay it.
2. That debt is legally enforceable, not one that cannot be sued upon or is void.
3. One of the characteristics or acts in paragraphs (1) to (5) is present.
4. The cheque was duly presented and the bank refused payment.

1. **Act on Offences Arising from the Use of Cheques B.E. 2534 (1991), Section 4** provides:

Section 4. Whoever issues a cheque in payment of a debt that genuinely exists and is legally enforceable, with any of the following characteristics or by any of the following acts:

(1) an intention that the cheque shall not be paid;

(2) at the time of issue, having no funds in the account available for payment;

(3) directing payment of a sum higher than the funds available in the account at the time of issue;

(4) withdrawing all or part of the funds from the account so that the remaining balance is insufficient to meet the cheque;

(5) prohibiting the bank from paying the cheque with dishonest intent.

Where the cheque has been duly presented and the bank refuses to pay it, the drawer commits an offence punishable by a fine not exceeding sixty thousand baht, or imprisonment not exceeding one year, or both.

Note

The matters in paragraphs (1) to (5) come second. The question about the debt is answered first.

Chapter 3

Layer One: The Debt Must Exist Before the Cheque

The requirement that the debt genuinely exist is read strictly. A debt must already be owing, and the cheque then issued to discharge it. Where the debt arises in the same moment the cheque changes hands, the element fails.

The classic example is a cheque exchanged for cash. In Supreme Court Judgment No. 1518/2535[2], decided by the full bench, no debt existed between the parties before the cheque was issued, so it was not issued in payment of an existing debt. Judgment No. 2088/2535[3] is to the same effect. The explanatory note to the Act confirms the purpose: only a cheque creating a binding and legally enforceable obligation can give rise to the offence.

2. Supreme Court Judgment No. 1518/2535
3. Supreme Court Judgment No. 2088/2535

Chapter 4

Layer Two: The Debt Must Be Legally Enforceable

A debt may genuinely exist as between the parties and yet be unenforceable in law, with the same effect on the criminal element.

In Supreme Court Judgment No. 5829/2540[4] a loan had been put in writing, but the stamp duty was not cancelled, so the agreement was not duly stamped and was inadmissible in a civil case. With no usable evidence of the loan, a loan above fifty baht was unenforceable, and a cheque paying it lacked an element. Judgment No. 894/2539[5] adds that where it is not proved that the cheque paid an enforceable debt, Cheque Act, Section 4 is not engaged.

Chapter 5

Excessive Interest: Severable or Not Makes the Difference

In Supreme Court Judgment No. 2086/2545[6] the cheque was for three hundred thousand baht while the genuine debt was two hundred thousand, the remainder being excessive interest inseparable from the principal. The Court held the excess void

4. Supreme Court Judgment No. 5829/2540
5. Supreme Court Judgment No. 894/2539
6. Supreme Court Judgment No. 2086/2545

and unenforceable, so issuing the cheque was not an offence. Judgments No. 2502/2534[7] and No. 634/2518[8] are to like effect.

It does not always exonerate. In Judgment No. 7909/2543[9] the Court separated the instruments: the cheque sued upon paid the principal of five hundred thousand baht, interest being dealt with separately. Since that cheque carried no unlawful interest, it still paid an enforceable debt. The dividing line is whether principal and interest can be separated.

Chapter 6

Cheques Given as Security: Where Most Prosecutions Fail

This is the heart of the matter, because much commercial practice uses cheques as security rather than as payment: a cheque left with a supplier in case a customer does not pay, or signed and attached to a loan agreement for the lender to hold.

Supreme Court Judgment No. 1351/2542[10] states the principle plainly. The loan agreement recorded that the borrower had given one cheque for the lender to hold as security. The Court held this clearly meant security for performance and not

7. Supreme Court Judgment No. 2502/2534
8. Supreme Court Judgment No. 634/2518
9. Supreme Court Judgment No. 7909/2543
10. Supreme Court Judgment No. 1351/2542

payment, so there was no offence under Cheque Act, Section 4. Even though the borrower later asked for time and asked the lender not to present the cheque, that did not revive the offence.

The line runs back to Judgment No. 862/2512[11], holding that a cheque standing in place of a loan agreement is not one issued in payment, and to Judgment No. 2570/2526[12], where the recipient knew the account had been closed and took the cheque as security and as pressure for repayment rather than to obtain payment. No offence arose. The point cuts both ways.

Chapter 7

No Criminal Liability Does Not Mean No Civil Liability

Supreme Court Judgment No. 452/2552[13] concerned cheques securing goods ordered by customers. So long as the price remained unpaid, the drawer remained liable on the cheques. The absence of criminal liability was because they were not issued in payment, an element of the offence, while liability to the holder on the instrument was unaffected.

So the absence of an offence should not be equated with the absence of a remedy. The two questions have always run separately.

11. Supreme Court Judgment No. 862/2512
12. Supreme Court Judgment No. 2570/2526
13. Supreme Court Judgment No. 452/2552

Chapter 8

Side by Side: Criminal Offence or Civil Debt Only

The table sets out principles, not an assessment of any particular matter, since small differences in fact can change the result.

Point	Capable of being an offence	Civil matter only
Origin of the debt	A debt existed first, and the cheque paid it	The debt arises with the cheque, as where it is exchanged for cash
Purpose of the cheque	Given in payment	Given as security for performance
Status of the debt	Enforceable, with admissible evidence	Unenforceable, or embedding inseparable excessive interest
Time limit to watch	Complaint within three months of the refusal	One year to sue the drawer on the cheque
Liability	Both criminal and civil	No criminal liability, civil liability remains

Chapter 9

Where the Original Debt Is Converted, the Answer Can Change

Supreme Court Judgment No. 2921/2540[14] sets out the mechanism. Exchanging a cheque for cash is not an offence, but when such a cheque is unpaid a debt arises between the parties in

14. Supreme Court Judgment No. 2921/2540

the amount of the instrument. The parties converted that debt into one under a loan agreement, and a fresh cheque was issued to pay the loan. That later cheque was treated as paying a debt genuinely existing and legally enforceable, and could engage the offence.

The outcome turns not on the amount of money but purely on the sequence of events and the documents made along the way. That is why old paperwork should not be discarded even where a matter appears settled.

Chapter 10

The Date the Offence Occurs Is Not the Date on the Cheque

The law uses different dates for different questions, and confusing them throws off every calculation. Supreme Court Judgment No. 5829/2540 holds that for the purposes of the Act the date of issue is the date written on the cheque, and the day it was physically written is not. This matters for post-dated cheques.

Judgment No. 150/2550[15] holds that the Cheque Act, Section 4 offence occurs when the bank refuses payment, not on the date written on the cheque. In short, the date on the cheque answers when it was issued; the refusal answers when the offence occurred, and the three-month clock runs from the latter.

15. Supreme Court Judgment No. 150/2550

Chapter 11

The Bank Return Slip: The Key Document on the Day It Bounces

If I had to choose one thing a holder should do on the day a cheque cannot be collected, it would be to obtain the bank return slip, keep the original, and retrieve the cheque itself. The slip records both the date of formal refusal, from which the time limits are counted, and the reason for it, such as insufficient funds, refer to drawer, or account closed, each pointing to a different characteristic within Cheque Act, Section 4.

A caution: a refusal need not be in writing. Supreme Court Judgment No. 7501/2544[16] held that even an oral refusal counts, because the law does not require writing. There the complaint came more than three months later and was time-barred. So do not wait for paper before counting days.

16. Supreme Court Judgment No. 7501/2544

Chapter 12

Three Months: A Clock Most People Do Not Know Is Running

Statutory authority for this section[17][18]

Read with Supreme Court Judgment No. 150/2550, the three months run from the bank's refusal, not from the date on the cheque and not from the last conversation about payment.

Judgment No. 588/2546[19] addresses another misunderstanding: the Penal Code deals with criminal prescription exhaustively and has no equivalent of the civil rules on interruption. A case filed in time before a court that lacked jurisdiction was struck out, and when proceedings were brought before the proper court after the period expired, the right to prosecute had lapsed.

Chapter 13

Re-presenting the Cheque Does Not Restart the Clock

A tempting but mistaken approach: the holder presents the cheque, the bank refuses, the holder waits, then presents the same cheque again and assumes the three months run from the

17. **Act on Offences Arising from the Use of Cheques B.E. 2534 (1991), Section 5** provides:

Section 5. An offence under Section 4 is a compoundable offence.

18. **Penal Code, Section 96** provides:

Section 96. Subject to Section 95, in the case of a compoundable offence, if the injured person does not lodge a complaint within three months from the day on which the offence and the identity of the offender became known, prescription is complete.

19. Supreme Court Judgment No. 588/2546

second refusal. Supreme Court Judgment No. 1983/2521[20] held that re-presenting does not restart prescription, because it is the same offence.

Judgment No. 984/2535[21] goes further: the drawer altered the date on the cheque and handed it back for collection, and the bank again refused; that could not be treated as a fresh offence. Judgment No. 2380/2517[22] likewise held that once the bank refused on the first presentation, the offence had occurred and the offender was known from that date. What matters is recording that first date precisely.

20. Supreme Court Judgment No. 1983/2521
21. Supreme Court Judgment No. 984/2535
22. Supreme Court Judgment No. 2380/2517

Chapter 14

Compoundable, and Payment Brings the Case to an End

Statutory authority for this section[23][24]

Note that paragraphs (2) and (6) sit in the same provision. Both a settlement and the mere passage of time reach the same legal result. One is a decision by the parties, the other the consequence of not deciding.

The second half of Cheque Act, Section 7 is often skipped: if the underlying debt ceases to bind before judgment becomes final, the case is likewise settled. A cheque case is tied to the debt behind it throughout.

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23. **Act on Offences Arising from the Use of Cheques B.E. 2534 (1991), Section 7** provides:

Section 7. If the offender under Section 4 pays the amount of the cheque to the holder or to the bank within thirty days from the date on which the drawer received written notice from the holder that the bank refused payment, or if the debt in payment of which the offender issued the cheque ceases to be binding before the court's judgment becomes final, the case shall be deemed settled under the Criminal Procedure Code.

24. **Criminal Procedure Code, Section 39** provides:

Section 39. The right to institute a criminal prosecution is extinguished as follows:

(1) by the death of the offender;

(2) in the case of a private offence, when the complaint has been withdrawn, the charge withdrawn, or a lawful compromise reached;

(3) when the case is settled under Section 37;

(4) when a final judgment has been given on the offence charged;

(5) when a law enacted after the act abolishes the offence;

(6) when the case is barred by prescription;

(7) when a law grants exemption from punishment.

Chapter 15

The Civil Route: What a Cheque Is and Who Is Liable

Statutory authority for this section [25] [26]

These provisions explain why a cheque carries weight on the civil side: liability attaches to the signature and to the terms of the instrument, without reconstructing the underlying transaction step by step. This is the footing on which Judgment No. 452/2552 rested.

Chapter 16

Presentation Periods, and Cheques Left Too Long

Statutory authority for this section [27] [28]

[25] **Civil and Commercial Code, Section 987** provides:

Section 987. A cheque is a written instrument whereby a person, called the drawer, orders a bank to pay a sum of money on demand to another person, or to the order of another person, called the payee.

[26] **Civil and Commercial Code, Section 900** provides:

Section 900. A person who signs his name on a bill is liable according to the terms of the bill.

[27] **Civil and Commercial Code, Section 990** provides:

Section 990. The holder of a cheque must present it to the bank for payment. If the cheque is payable in the same town in which it was drawn, it must be presented within one month from its date; if payable elsewhere, within three months. Otherwise the holder loses the right of recourse against all endorsers, and also loses rights against the drawer to the extent of any damage caused to the drawer by the failure to present.

[28] **Civil and Commercial Code, Section 991** provides:

Section 991. A bank must pay a cheque drawn on it by a customer, except where:

(1) there are insufficient funds standing to the customer's credit to pay the cheque; or

(2) the cheque is presented for payment more than six months after its date; or

(3) notice has been given that the cheque has been lost or stolen.

Paragraph (2) is the origin of what is loosely called a stale cheque: once six months have passed, the bank is no longer bound to pay. A cheque is unlike a loan document that can sit in a drawer indefinitely, because it carries several layers of timing at once, presentation, recourse, and prescription.

Chapter 17

Prescription for a Civil Claim on the Cheque

Statutory authority for this section [29]

This one-year framework runs independently of the three-month criminal period, which produces situations people do not expect, such as the criminal window having closed while the civil period remains open. Check the dates before drawing any conclusion.

29. **Civil and Commercial Code, Section 1002** provides:

Section 1002. In an action by the holder of a bill against endorsers and the drawer, no action may be brought after one year from the date of a protest duly made within the prescribed time, or from the date of maturity of the bill where it is stipulated that no protest is required.

Frequently asked questions

Q Can a complaint be made whenever a cheque bounces

A Not in every case. Cheque Act, Section 4 requires that the cheque paid a debt genuinely existing and legally enforceable. If no debt existed beforehand, as with a cheque exchanged for cash in Supreme Court Judgment No. 1518/2535, or if the debt is unenforceable, an element is missing even where the account held no funds.

Q If a cheque given as security bounces, is the money lost

A No. Supreme Court Judgment No. 452/2552 explains that a cheque securing performance creates no criminal liability, because it is not a cheque issued in payment. So long as the debt remains unpaid, the drawer remains liable on the cheque to the holder on the civil side.

Q Does the three-month period run from the date on the cheque or the refusal

A From the refusal. Supreme Court Judgment No. 150/2550 holds that the Cheque Act, Section 4 offence occurs on refusal and not on the date written on the cheque, so the period under Criminal Code, Section 96 of the Penal Code begins then. Judgments No. 984/2535 and No. 1983/2521 add that re-presenting does not restart the count.

Q What happens to the criminal case if the drawer later pays

A Cheque Act, Section 5 makes the offence compoundable, and Section 7 provides that if the offender pays the amount of the cheque to the holder or the bank within thirty days of receiving written notice of the refusal, or if the underlying debt ceases to bind before judgment becomes final, the case is deemed settled. This aligns with Section 39 of the Criminal Procedure Code.

In summary

A dishonoured cheque travels along two tracks that were separate from the start. The criminal track under Section 4 of the Act on Offences Arising from the Use of Cheques B.E. 2534 (1991) requires a debt genuinely existing and legally enforceable to have preceded the cheque, which is why a security cheque or a cheque exchanged for cash falls outside it on the reasoning of Judgments No. 1351/2542 and No. 1518/2535. The three-month period under Criminal Code, Section 96 of the Penal Code runs from the refusal and does not restart on re-presentation, while Cheque Act, Sections 5 and 7 allow the matter to end through payment or compromise. The civil track under the bills provisions survives the absence of any offence.

> Anyone who understands this structure can read their own situation far more quickly: what to ask the bank for on the first day, which documents explain what the cheque was for, and which dates must be recorded precisely. In the end, a bounced cheque is not decided by whether there was money in the account. It is decided by whether the cheque was issued to pay a debt or issued to secure one.

What to do next

1. Obtain the bank return slip, keep the original, and retrieve the returned cheque
2. Record the date of the first refusal precisely, as the statutory periods run from it
3. Gather the documents explaining what the cheque was issued for, keeping the complete set
4. Check the related agreement is formally in order, for example that stamp duty was affixed and cancelled
5. Preserve all related conversations without deleting or editing them
6. Assemble the full set of dates: the date on the cheque, presentation dates, and the refusal date

Notes and references

Statutes and judgments cited in this book, with the chapter and footnote number.

Statutes cited

1	Act on Offences Arising from the Use of Cheques B.E. 2534 (1991), Section 4	Chapter 2 · note 1
2	Act on Offences Arising from the Use of Cheques B.E. 2534 (1991), Section 5	Chapter 12 · note 17
3	Penal Code, Section 96	Chapter 12 · note 18
4	Act on Offences Arising from the Use of Cheques B.E. 2534 (1991), Section 7	Chapter 14 · note 23
5	Criminal Procedure Code, Section 39	Chapter 14 · note 24
6	Civil and Commercial Code, Section 987	Chapter 15 · note 25
7	Civil and Commercial Code, Section 900	Chapter 15 · note 26
8	Civil and Commercial Code, Section 990	Chapter 16 · note 27
9	Civil and Commercial Code, Section 991	Chapter 16 · note 28
10	Civil and Commercial Code, Section 1002	Chapter 17 · note 29

Supreme Court judgments cited

1	Supreme Court Judgment No. 1518/2535	Chapter 3 · note 2
2	Supreme Court Judgment No. 2088/2535	Chapter 3 · note 3
3	Supreme Court Judgment No. 5829/2540	Chapter 4 · note 4
4	Supreme Court Judgment No. 894/2539	Chapter 4 · note 5
5	Supreme Court Judgment No. 2086/2545	Chapter 5 · note 6

6	Supreme Court Judgment No. 2502/2534	Chapter 5 · note 7
7	Supreme Court Judgment No. 634/2518	Chapter 5 · note 8
8	Supreme Court Judgment No. 7909/2543	Chapter 5 · note 9
9	Supreme Court Judgment No. 1351/2542	Chapter 6 · note 10
10	Supreme Court Judgment No. 862/2512	Chapter 6 · note 11
11	Supreme Court Judgment No. 2570/2526	Chapter 6 · note 12
12	Supreme Court Judgment No. 452/2552	Chapter 7 · note 13
13	Supreme Court Judgment No. 2921/2540	Chapter 9 · note 14
14	Supreme Court Judgment No. 150/2550	Chapter 10 · note 15
15	Supreme Court Judgment No. 7501/2544	Chapter 11 · note 16
16	Supreme Court Judgment No. 588/2546	Chapter 12 · note 19
17	Supreme Court Judgment No. 1983/2521	Chapter 13 · note 20
18	Supreme Court Judgment No. 984/2535	Chapter 13 · note 21
19	Supreme Court Judgment No. 2380/2517	Chapter 13 · note 22

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Supreme Court judgments can be read in full through the Supreme Court's judgment search (deka.supremecourt.or.th)

From the author

If this is happening to you

If you are in this situation, or you are unsure whether the evidence you hold is enough, you are welcome to ask. We can look at what your documents and messages establish as a matter of law, and what options lie ahead.

What to gather before seeking advice

- [ ] The original bank return slip, with the reason for refusal stated by the bank
- [ ] The returned cheque itself, both sides, including every endorsement
- [ ] Documents evidencing the underlying debt: loan agreement, sale contract, purchase order, delivery note, invoice
- [ ] Messages or correspondence from when the cheque was handed over, kept as a complete thread
- [ ] A note of the date it first became known the cheque could not be collected, including any verbal indication

- [ ] Any notice or demand already sent, with proof of receipt
- [ ] Evidence of any part payment or agreed extension

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Tell us the matter and any deadlines	Agree the scope and fees	Carry out the work and report

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Phenhnung Thabthimthong

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This article is general information, not advice on any specific case. A small change in facts can change the entire legal outcome, and the law may be amended, so please consult an attorney before acting.

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