



مصرف الإمارات العربية المتحدة المركزي
CENTRAL BANK OF THE U.A.E.

Q&A on the new amendments to the Commercial Transactions Law regarding provisions relating to cheques issued under Federal Decree-Law No. 14 of 2020 dated 9/27/2020, amending some provisions of Federal Law No. 18 of 1993 promulgating Commercial Transactions Law (the Law)





1. What is the objective of the Central Bank of the UAE (CBUAE)'s current media campaign?

In this media campaign, the CBUAE aims to:

- a. Raise cheque users' awareness on the decriminalisation of issuing a cheque without sufficient fund;
- b. Raise cheque users' awareness on the criminalisation of refraining from partial payment of the cheque's amount;
- c. Raise cheque users' awareness on tougher administrative penalties for issuing a cheque without sufficient fund;
- d. Clarify the mechanism for implementing partial payment of the cheque;
- e. Clarify the procedures for partial payment of the cheque;
- f. Clarify the procedures if the cheque is returned due to non-sufficient fund;
- g. Clarify the rights of cheque users.

2. What are the main messages of the media campaign that the CBUAE wants to convey to the cheque users?

The main messages of the media campaign are as follows:

- a. To issue the necessary guidelines/instructions to banks and other financial institutions.
- b. To clarify the penalties in case of:
 - ◆ Issuing a cheque without a sufficient fund;
 - ◆ Refusal to implement partial payment of the cheque.
- c. Consumer protection.
- d. To clarify the role of banks and other financial institutions.

3. What are the objectives of the new amendments to the Commercial Transactions Law on cheque provisions?

Given the importance of cheques in transactions, the Commercial Transactions Law has been amended in accordance with best practices to keep pace with international developments, and with the aim of developing a tight legislative framework for these transactions to govern dealing in cheques in such way as to ensure that it plays its role as a payment tool, in place of cash.

Generally, the new amendments to the Penal Code decriminalise several cheque-related issues, especially issuing a cheque without a sufficient fund, and introduce amendments and new legal provisions Chapters (Three) related to the cheques contained in Book Four of the Federal Commercial Transactions Law, to achieve the following objectives:



- a. Reducing the negative practical aspects of dealing with cheques, in light of the best and most successful international practices;
- b. Consolidating the principles of justice, fairness and equal opportunities, by balancing the interests of the beneficiary (in fulfilling their rights in the fastest way possible) and the interests of the drawer (in terminating the criminal case against them upon payment).
- c. Maintaining a solid national economy and a judiciary system based on efficiency and quality; and boosting the rule-of-law and international competitiveness indicators, in line with the state's general vision and strategy.

4. What are the most important features and most prominent provisions contained in the amendments?

- a. Some crimes were retained to achieve the desired objectives of decriminalisation and its replacement by some civil measures.

The cases of criminalisation and fraud related to cheque were listed as follows:

- ◆ Cases of fraud when issuing the cheque: including requesting the bank not to cash the cheque before the due date without a legal reason (i.e. in cases other than those stipulated in Articles (620) and (625), where the cheque has been lost, or the bearer was declared bankrupt).
- ◆ Criminalisation cases related to fraud and misuse of cheques.
- ◆ Closing the account, or withdrawing the entire balance before issuing the cheque or before presenting it to the bank for cashing, or if the account was frozen.
- ◆ Intentionally writing or signing the cheque in a way that prevents its cashing.

Under the new amendment (Article 641 bis 2), current cheque criminalisation in the Penal Code has been abolished, especially with regard to issuing a cheque without a sufficient fund, except for cases stipulated in the Law.

Criminalisation has become limited to the cases mentioned above. In any other cases - that is when the cheque was returned due to non-sufficient fund in whole or in part, the cheque bearer/beneficiary may refer the matter directly to the execution judge to obtain their rights by requesting for its implementation, in whole or in part, forcibly, as an executive document, in accordance with the procedures and rules specified by the regulations of the Civil Procedures Law.

The law regulates payment of cheques in Articles 617-627 with rules to ensure the cheque performs its legal and economic function.

In principle, the bank (the drawee) is obliged to pay the cheque's value upon presentation where there is sufficient fund. It cannot refrain from paying, since this could affect the principal rights of the holder's ownership of the cheque in return for payment.

Although the law permits, the bank (the drawee) to refrain from paying if it receives



opposition to this payment, but has narrowed the cases in which this opposition is permissible, limiting it to cases of cheque loss and bearer bankruptcy only, so that the cheque performs its intended function as a tool of payment.

- b. Strong civil alternatives have been developed that lead to the collection of the cheque value in the fastest and simplest possible way, including:
- ◆ Obligating the bank to pay the cheque (at least partially); and
 - ◆ Making a cheque from the drawee's bank account with non-sufficient fund an executive document to be implemented directly through the execution judge, without resorting to lengthy legal procedures, as was the case previously (before the amendments).

This means that there is no need to file a police report, or a complaint and ensuing follow-up of procedures with the police and prosecution, then the courts. In this case, the cheque has the power of an executive bond that does not require a court ruling, which should expedite legal action, so that a bank can exercise its rights and simplify the procedures for obtaining the cheque's value. This should strengthen the cheque as a payment tool in commercial and financial transactions.

- c. This provides the means to avoid criminal action and associated procedures, if the whole (or the remainder) of the cheque's value is paid before commencement of mandatory execution procedures or the issuance of a final judgment.
- d. A number of consequential penalties have been introduced, including: withdrawing the existing chequebook from the convicted person, preventing him from having a new chequebook for a maximum period of 5 years, and freezing the professional or commercial activities of the legal person.
- e. New amendments have been introduced for legal person (except for banks and financial institutions), including the imposition of a fine, licence suspension for a period of 6 months, and licence cancellation or dissolution of the legal entity for repeated violations.

5. What is the extent of the amendments made? How many articles were amended? How many articles are new?

The number of amended articles is 7 namely: 379, 600, 617, 641, 642, 643 and 644. The number of new articles is 9 namely: 635 bis, 641 bis 1-4, 643 bis (1), 643 bis (2), 644 bis (1) and 644 bis (2)

7 amended articles + 9 new articles = 16 articles

6. When will the new amendments enter into force?

The new amendments on cheque provisions shall take effect from 2nd January 2022. Except that the amendment in Article (379) on joint accounts shall be effective from the day following the date of publication of the law, i.e. 1st October 2020, as the law



was issued on 27th September 2020 and published in Issue No. 687 (Supplement) of the Official Gazette on 30th September 2020.

This means that a period of more than one year and three months (since the law was issued) has been given to cheque users (individuals and companies) to prepare for the amendments, to ensure the stability of transactions, and for law enforcement agencies to reconcile matters and establish the appropriate procedures and mechanisms to implement the new procedures.

7. What is the meaning of “payment of the value of a cheque”?

It is the payment of the amount specified in the cheque by the drawee bank to the cheque bearer or beneficiary.

8. What is “the consideration for payment”?

It is the fund available in the account, the issuer’s cash in the bank’s custody, a confirmed and specified amount, immediately due and disposable by drawing cheques on it.

9. What is the deadline for presenting a cheque for payment?

The law specified the date for presenting a cheque for payment and stipulated in Article (618) that it must be presented within six months, if it was drawn in the State or abroad, and it is due for payment. Calculation of this period starts from the date indicated on the cheque (its issue date).

As this article clarifies, the period is calculated from the date indicated on the cheque as its issue date, and not from the date of partial payment.

The reason for shortening this date is the legislator’s wish not to oblige the drawer to maintain the consideration for payment with the drawee bank indefinitely.

Note that if the bearer does not present the cheque within the time limit for its submission, his right to claim its value shall not be forfeited. Article (620/1) of the law states that “the drawee may pay the value of the cheque, even after the expiry of the date for its presentation.”

This date has no binding force before the beneficiary or the bank, and its expiry does not preclude collection of its value from the drawee bank, as it does not result in the cheque losing its nature as a payment instrument to facilitate the flow of money. The effect of its expiry is limited to depriving the beneficiary of the defence that he has before the drawer.

The holder may be exposed to forfeiture of his civil right to the endorsers and the drawer by failing to take the procedures required by the legislator to fulfil their rights, including presenting the cheque at the time indicated by the Law.



If the drawer proves the availability of the fund over the six-month period, and the bearer does not submit the cheque to the bank to collect its value and withdraw this amount by an act not attributed to the drawer, the bearer's right to recourse for the value of the cheque is forfeited to the drawer, as he is a negligent bearer.

10. What is "partial payment of a cheque"?

Partial payment means to pay or settle part of the cheque's value, and therefore, the drawer and all endorsers and guarantors (if any) are partially discharged.

UAE law did not require that in order to pay the cheque's value, the consideration for payment at the drawee's bank should be equal to the cheque's amount.

The cheque's bearer may accept partial payment of the cheque's value and postpone the remainder, if that is deemed to be in the bearer's interest, if the drawer's financial condition is poor, or if it is in his interest to save whatever can be saved from the debt. The cheque's bearer shall not be obliged to accept partial payment; he shall have the choice to accept partial payment, or refuse to pay and recourse to the drawer the full amount of the cheque, but if he chooses to accept partial payment, the drawee bank shall not refrain from that. The cheque bearer may request the drawee bank to mark the partial payment on the backside of the cheque, and the latter shall give him the original cheque along with a certificate confirming the same.

11. What is the mechanism for partial payment of a cheque?

In implementing Article (617) of the Law, if the amount available in the account is less than the amount of the cheque, the bank must make partial payment of the amount in its possession, unless the cheque bearer refuses this. In such cases, the bank shall mark each partial payment on the backside of the cheque, and give back the original cheque along with a certificate of payment to the cheque bearer (according to a mechanism that is being discussed with banks currently, and will be circulated soon).

In the event of collection through the cheque bearer/beneficiary's bank, the latter will give a certificate of partial payment to the cheque bearer/beneficiary. The bank should keep a copy of the partially-paid cheque and a copy of the partial payment certificate issued by it.

The cheque bearer shall have the right to recourse for the remainder of the original cheque as an executive document after partial payment, in accordance with the provisions, procedures and rules specified in the regulations of the Civil Procedures Law, and as per Article (635 bis) of the law, or by protesting after the expiry of the periods stipulated in Article (632) of the Law.

12. What is the benefit of obtaining a partial payment certificate from the bank?

The partial payment certificate referred to in Article (617) of the law shall not be



considered a cheque, and is not protected. It is given to the cheque bearer to prove his civil rights before the judicial authorities.

The cheque bearer may sue the drawer (if he so desires) to claim the remainder of the cheque's value on the basis of the original cheque, certificate or through a protest.

13. What is meant by an "act of protest"?

If the drawee bank refuses to pay the cheque's value, the bearer must prove such refusal in a manner recognised by law, called a 'protest of non-payment. Article (632/1) of the law stipulates that "The cheque bearer may recourse to the drawer, endorsers and others obligated to it, if he present it within the legal time, provided that the cheque value was not paid, and the refusal was proven by protest".

The protest is defined as an official paper from bailiffs to prove that the drawee bank refuses to pay. This is a means of proving that the cheque was presented to the drawee bank, and the bank's failure to pay. To avoid disputes about demands for payment by the cheque bearer and the bank's refusal to honour it, the legislator requires official proof by way of protest.

In view of the lengthy procedures when preparing a protest for non-payment and the low value of some cheques, Article 632/1 allows abstention by another means that is faster and easier than the protest for non-payment. This is a statement that a bank employee places on the cheque, according to Article 632/1, which states: "Instead of protesting, it is permissible to prove refusal to pay by a statement issued by the drawee, mentioning the day that the cheque was presented, dated and written on the cheque itself."

14. Is partial payment of a cheque mandatory? Who is obliged to make partial payment?

Article 617/2 of the law (before the amendment) stipulated the following:

- ◆ Where the consideration for payment is less than the value of the cheque, the bearer must require partial payment from the drawee up to the amount available.
- ◆ The law (following the amendment) stipulates that: "where the consideration for payment is less than the value of the cheque, the drawee must pay the amount in their possession partially, unless the bearer refuses this".
- ◆ As per the old version of the Law, the bank only made partial payments at the holder's request. After the amendment, the bank is obliged to make partial payment, unless the holder refuses this.
- ◆ The partial payment mechanism is explained in Clause (8) above

15. What are the guarantees for honouring a cheque's value?

The cheque holder/beneficiary enjoys all legal guarantees to obtain his rights. The



guarantees of cheque payment are the signatories' solidarity, the reserve guarantee, the balance and the consideration for payment. Article (635 bis) of the Law stipulates that "A cheque bearing the drawee's stamp as 'unpaid due to unavailable or insufficient funds' shall constitute an executive instrument, as per the Executive Regulation of the Federal Law No. 11 of 1992, the cheque bearer may require to implement it, wholly or partially, forcibly."

The provisions, procedures and rules specified in the aforementioned regulation shall be implemented in case of disputes.

Each person who signs a cheque, such as the drawer, endorser and alternate guarantor (of the drawer or endorser), shall be deemed to guarantee the cheque's payment by the drawee, jointly with the other signatories.

Although common for bills of exchange, alternate guarantors are rare for cheques, which are considered a payment instrument only, with a short life. Nonetheless, Article (615) of the Law covers this aspect.

16. What is the effect of partial payment on the ownership of the consideration for payment (balance)?

The holder/beneficiary owns the consideration for payment after the cheque's issuance, and has the right to dispose of it thereafter. The holder's right to the consideration for payment is established, whether fully or incomplete, over the part of the balance (the missing consideration), with full rights assigned to him for the full balance (the full consideration).

17. What is meant by a protest to cheque payment?

A protest to a cheque payment means that the drawer issues an order to the bank not to pay the cheque value to the bearer.

As per the Commercial Transactions Law, the legislator prohibits the drawer in principle from ordering his drawee bank not to pay the cheque's value to the bearer, whose rights include the consideration for payment (the balance). This is called 'protest to payment.

However, in certain cases, the legislator allows a drawer to protest, i.e. to order the bank not to pay a cheque's value.

18. What are cases of protest or objection to the payment of a cheque's value?

The law permitted two types of protest to the cheque's payment: one of which is for the benefit of a cheque bearer who lost a cheque against his will, such as the cheque being stolen or lost. While the second type follows a bankruptcy declaration, when a bankrupt is restrained from managing their funds and disposing of them, to protect their creditors.



These two reasons are examples. Therefore, no one may protest to a cheque's payment, other than for these two reasons.

The first case is a protest in case of the cheque being stolen or lost; The bearer of the cheque may object to the drawee bank in paying the cheque value, if the cheque is stolen or lost , or being obtained by fraudulent means, or if the cheque is destroyed.

The second case is when the cheque bearer is declared bankrupt.

This object may be made by the drawer himself, or by the cheque bearer following the cheque being stolen or lost.

19. What is meant by "considering the cheque as an executive instrument"?

The regulation of Federal Law No. (11) of 1992 regarding the Civil Procedures Law, issued pursuant to Cabinet Resolution No. (57) of 2018, stipulated that compulsory execution may only be made with an executive deed for an existing right to a specific amount and a matured payment.

The regulation defines executive deeds, including papers that acquire such capacity by Law.

In cases other than those excepted under the law, the execution may not be made except by a transcript of the executive instrument in the following execution text:

"The competent authorities and bodies shall initiatory and effectively execute this instrument and assist in executing it even compulsorily whenever they are requested to do so."

The bearer of a bounced cheque due to insufficient funds, can refer the matter directly to the execution judge to obtain the executive text on the cheque, and to follow the provisions, procedures and rules specified by the regulation in this regard.

20. What is meant by confirmation of a cheque? Is it permissible for the bank to refuse confirmation of a cheque? What happens to the consideration for payment?

Pursuant to Article (600) of the Law:

The drawee may enter on the cheque an expression of confirmation, such confirmation indicating the availability with the drawee of the consideration for payment on the date of making such entry. The drawee's signature on the cheque itself shall be deemed as a confirmation.

A drawee may not refuse to confirm the cheque if the drawer of bearer requires such a confirmation and when he has sufficient consideration to pay the value of the cheque.

The consideration for payment of a confirmed cheque shall remain blocked with the



drawee and under his responsibility in favour of the bearer until the lapse of the time limits set for the presentation of the cheque for payment.

The law does not require a specific text for confirmation, stating, "The drawee's signature on the cheque itself shall be deemed as a confirmation."

21. What are the consequences of the cheque being signed for confirmation by the bank?

The law outlines two consequences of signature for confirmation as clarified in clauses (2) and (4) of Article (600) of the law, as follows:

1. The drawee may enter on the cheque an expression of confirmation, such confirmation indicating the availability with the drawee of the consideration for payment on the date of making such entry. The drawee's signature on the cheque itself shall be deemed as a confirmation.
2. The consideration for payment of a confirmed cheque shall remain blocked with the drawee and under his responsibility in favour of the bearer until the lapse of the time limits set for the presentation of the cheque for payment.

22. What is the bank's role in partial payment of the cheque?

1. In addition to the bank's role referred to in Article (600), pursuant to Article (617) of the Law, the bank shall notify the CBUAE of data of the account owner, according to a mechanism which will be circulated soon, in any of the following cases:
 - a. Where no sufficient, existing and usable consideration for payment of the value of the cheque is available at the date of its maturity,
 - b. Where the drawer, after issuing the cheque, withdraws the whole consideration for payment so it is not possible to pay its value, or
 - c. Where the bank partially pays the value of the cheque.
2. The bank should abide by the following:
 - a. The mechanism of executing the new amendments to the law related to partial payment of the cheque, which will be circulated soon by the CBUAE.
 - b. Informing the bank's employees and customers of these amendments by all usual means and methods, whether through social media, websites, electronic applications, text messages or SMS displayed on ATM screens, internal screens or other traditional or modern electronic media.
 - c. Raising the level of education and awareness among the bank's employees and customers to guide and enable them to understand the basic risks, providing them with all relevant information on these new amendments and their implications, clarifying the mechanisms and methods of applying partial payment of the cheque's value, the precise procedures to be followed



in these case, and how to avoid liability and penalties resulting from violating this law and misusing cheques.

- d. Providing the necessary and appropriate means and mechanisms to respond to customers' complaints and inquiries, and clarify their rights and responsibilities related to all new amendments to the law.

23. What is the mechanism for reporting returned or partially-paid cheques to AECB? What is the impact of this on the AECB report? Would this affect the issuance of chequebooks?

Clause 3 of Article 617 of the law stipulates the following:

"The drawee shall report the details of the account owner to the Central Bank, in accordance with the rules and regulations issued by the Central Bank, in any of the following cases:

- a. Where no sufficient, existing and usable consideration for payment of the cheque value are available at its maturity date:
- b. Where the drawer, after issuing the cheque, withdraws the whole consideration for payment, so it is not possible to pay its value; or
- c. Where the drawee pays the value of the cheque partially, in accordance with clause 2 of this article."

The mechanism to report returned (or partially-paid) cheques to the AECB is the same as that used by the company for credit information report.

As for the impact of this on the issuance of the chequebook, as per the CBUAE's instructions, for people to whom at least four cheques are returned due to non-sufficient fund, within a maximum period of one year between the first cheque and the fourth cheque, in this case, their accounts must be closed for a period of two years. If this is repeated, the period must be extended to three years, and their remaining unused cheques shall be recovered.

24. In case of partial payment of the cheque, is the cheque still considered as a "returned cheque"? If yes, shall these procedures be subject to the Central Bank's regulations related to returned cheques?

Article 617/2 answered this question clearly. Where a cheque is considered returned within the limits of the unpaid amount of the cheque value, this is subject to the regulations and procedures of the Central Bank in this regard.

25. What is the period during which the beneficiary/cheque bearer is entitled to submit the partially-paid cheque to the court?

The bearer of a partially-paid cheque may refer the matter directly to the execution judge to obtain the executive text on the cheque, and to follow the provisions, procedures and rules provided for by the regulation.



26. How many times can a cheque bearer/beneficiary submit it for partial payment?

Whenever the cheque bearer/beneficiary receives part of the cheque value, he can apply to the bank later to claim the remaining amount. He may obtain the remaining value or part of the cheque, and so on. The cheque bearer has the right to re-submit the partially-paid cheque one or many times to the bank to collect the remainder of its value, according to the mechanism determined by the Central Bank in this regard.

27. How does the bank act in the event of several cheques are submitted while the balance is not sufficient to honor all the cheques?

When several cheques are submitted to the bank at the same time for the same drawer and on the same consideration for payment, which is not sufficient to pay them all, even if some are sufficient for full payment, the bank is obliged to pay the first-submitted cheque. It shall not postpone payment until the end of the day, nor shall it collect cheques daily to pay them all in the last working hours. Every cheque submitted for payment should be paid.

If cheques are submitted one after the other, this is not considered as crowding cheques. "Crowding" means that two or more cheques are in the bank's possession at one time, with each bearer claiming payment of their right on the fund, and the bank finds that the existing consideration for payment is insufficient to pay for all applicants. How would it prioritise them?

Article (622) of the law outlines the standard adopted in this case, which stipulates that:

1. Where several cheques are presented at the same time and the consideration for payment is insufficient to pay their entire value, the dates of their issue shall be taken into consideration.
2. Where all the cheques presented originate from the same chequebook and have the same date, the cheque bearing the first serial number shall be deemed to have been issued before the others, unless otherwise established.

The principle is to look at the cheques themselves, not at the date on which the bearer obtained the cheque. The cheque with the earlier withdrawal date will have priority, because the drawer of the first- issued cheque has paid the consideration for payment to the beneficiary; if this cheque covers the consideration for payment, such consideration for payment will be transferred to the beneficiary, who has received the first cheque.

28. Does a bank employee disclose confidential banking and credit information if they inform the cheque bearer that a part of the cheque value exists in the drawer's account?

A bank employee's declaration that there is non-sufficient fund for the value of the cheque/part of the value of the cheque is not considered a violation of banking secrecy, as long as this declaration is within the limits of this statement.



There is no violation of banking secrecy, so long as the bank employee's declaration that there is non-sufficient fund, or that there is a part of it in the drawer/client's account to cash the cheque is limited to that only, without referring to other data.

When a bank provides a certificate to the cheque bearer/beneficiary of partial payment or declares that the fund is insufficient to cash the cheque, this is not a disclosure of the client's account secrecy, provided that the bank's declaration is limited to this statement, without extending to other information about the account, or that the client has other accounts.

It is not permissible for the customer to sue the bank because it disclosed account confidentiality, as long as the bank complied with the limits of permissibility. The law punishes bank employee who refuses to cash a valid cheque without reason, or who refrains from clarifying a reason for dishonouring a cheque, or who refrains from partial payment, or who refrains from issuing a certificate to that effect, or refrains from delivering the original cheque. It is an application for the performance of duty as a reason for permissibility.

29. What are the penalties under the new amendments to the law?

- a. Whoever commits any of the acts below shall be subject to a penalty of no less than 10% of the cheque value, with a minimum amount of AED 5000 (five thousand), and not exceeding double value of the cheque:
 - ◆ To declare deliberately and contrary to the truth that the consideration for payment of the cheque is not available or that the consideration is available but is less than the value of the cheque.
 - ◆ To refuse in bad faith to pay to the bearer of a cheque against whom no valid objection was made, the value of the cheque which is drawn on a bank, in spite of the fact that the consideration for payment thereof is available.
 - ◆ The bank did not put a statement of non-payment, which must be written and dated on the cheque itself.
- b. The law also punishes whoever refrain from partial payment of the cheque's value, or issuing a certificate to that effect, or delivering the original cheque as per the provisions stipulated in clause (2) of Article (617) of the Law. (Article 641)

30. What is the penalty for endorsing a cheque to someone else or delivers a cheque to its bearer, while knowing that the cheque has insufficient funds to pay its value, or that it is non-drawable?

A penalty of no less than 10% of the cheque value and a minimum amount of AED1000 (one thousand), and no more than the cheque value (Article 641 bis (1)).



31. When is a chequebook withdrawn? What is the withdrawal period? What is the penalty for not surrendering the chequebook? What is the penalty for the bank in case it violates these instructions?

According to Article (643), If the court reaches a guilty verdict on any of the cheque offences stipulated in the 641 bis (1) and 641 bis (2) of the law, it may order that the cheque book should be withdrawn from the guilty party and that no new cheque books should be issued to him for a period not exceeding five years.

The convicted person shall be sentenced to a penalty of no less than AED50,000 (fifty thousand) and not exceeding AED100,000 (one hundred thousand), if he fails to surrender the existing chequebooks to the respective banks within 15 fifteen days of notification to do so.

Any bank which violates the instructions provided for in the above two clauses of this article, shall be punished by a penalty of no less than AED100,000 (one hundred thousand) and not exceeding AED200,000 (two hundred thousand).

32. What is the penalty for issuing a cheque without sufficient funds according to the new amendments?

As per the new amendments, Articles (401) and (402) of the Penal Code were abolished, as these two articles criminalized issuing a cheque in bad faith that has no consideration for payment, or deliberately writing it in a way that prevents it from being cashed, and other cases in the two mentioned articles. These acts have been criminalized by articles (641), (641 bis) 1, 2, 3 and 4 – (634 bis) 1 and 2 - and (644 bis) 1 and 2 in the new amendments to the Law.

In addition, Article (403) of the Penal Code, which stipulates the imposition of the same penalties on postal cheques, was abolished, since this type of cheques are no longer used.

33. What is the penalty for forging or counterfeiting a cheque, attributing it to others, or deliberately using a forged cheque?

Article 641 bis (3) stipulates that: "Whomever commits any of the acts below shall be subject to punishment by imprisonment for no less than one year in addition to a penalty of no less than AED20,000 (twenty thousand) and not exceeding AED100,000 (one hundred thousand):

1. Forging or counterfeiting a cheque, or attributing it to a third party by changing details through addition, deletion or other means provided for in Article (216) of Federal Law No. 3 of 1987, with the objective of damaging a third party and with objective of using it for the aim of its forgery.
2. Knowingly using a forged or counterfeited cheque.
3. Knowingly accepting funds paid through a forged or counterfeited cheque.
4. Using a true cheque issued in the name of others, inappropriately benefitting from it, or using it in relation to a crime of fraud.



5. Knowingly importing, manufacturing, getting, gaining, selling, offering or providing any tools, equipment, software, information or data used in the crime of forgery as provided for in this Article.

34. How is bad faith proven in issuing a cheque?

Proving a bad faith is a discretionary authority for a competent court based on the evidence submitted and facts drawn by the court. A drawer's bad faith is also proven if the account is closed, frozen, the entire fund has been withdrawn, or if the bank was instructed to refrain from lawful payment, or if he deliberately writes the cheque or sign it in a way that prevents it from being cashed.

35. What is the penalty in cases where one of the crimes stipulated in Chapter Seven (Penalties) is committed in the name, or for the benefit of a legal person?

As per Article 644 bis (1), the person in charge of actual administration shall not be liable for punishment unless it is evident that the person has been aware of the crime, or that such person has committed the crime for the benefit of himself or third parties.

Where the liability of the legal person is not evident as provided for in the above paragraph, the legal person shall be subject to a penalty of no less than twice the legally applicable penalty for this crime and no more than five times thereof.

The court may order the suspension of the legal person's business for no more than six months. In case of repetition, it may order the cancelation of the trade licence and dissolve the legal person.

The court shall order the publication of judgments at the expense of the legal person in two widely-circulated daily newspapers in the UAE, one in Arabic and one in English, or in two e-publishing media, to be determined by a decision of the Minister of Justice, one in Arabic and one in English.

This does not preclude the judiciary, with any subsidiary penalties stipulated by law.

Provisions stipulated in clause 2 of this article shall not apply to licensed financial institutions subject to the aforementioned Federal Decree-Law No. 14 of 2018 (the Central Bank Law).

36. In case of a penal case, when does it abated?

Any penal case with respect to these crimes shall be abated, if the full or the remaining cheque value is paid before the initiation of coercive execution procedures, or should the full or remaining cheque value be paid or a reconciliation is reached before the issuance of final judgment. If a reconciliation is reached after the issuance of a final judgment, the execution of the judgment shall be suspended.