

[AS INTRODUCED IN THE NATIONAL ASSEMBLY]

A

BILL

further to amend the Pakistan Penal Code, 1860 and the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Pakistan Penal Code, 1860 (Act XLV of 1860), and the Code of Criminal Procedure, 1898 (Act V of 1898), for the purposes hereinafter appearing:

It is hereby enacted as follows:-

1. **Short title and commencement.**- (1) This Act may be called the Criminal Law (Amendment) Act, 2019.

(2) It shall come into force at once.

2. **Substitution of section 489F, Act XLV of 1860.**- In the Pakistan Penal Code, 1860 (Act XLV of 1860), for section 489F, the following shall be substituted, namely :-

"489F. Dishonestly issuing a cheque.- (1) Whoever dishonestly issues a cheque towards repayment of a loan or fulfilment of an obligation which is dishonoured on presentation, shall be punishable as under.-

- (a) if the amount mentioned in the cheque is less than rupees ten hundred thousand, with imprisonment of either description for a term which may extend to three years, or with fine which shall not be less than double of the amount mentioned in the cheque, or with both; or
- (b) if the amount mentioned in the cheque is more than rupees ten hundred thousand but less than rupees fifty hundred thousand, with imprisonment of either description for a term which may extend to five years, or with fine which shall not be less than double of the amount mentioned in the cheque, or with both; or
- (c) if the amount mentioned in the cheque is more than rupees fifty hundred thousand but less than rupees ten million, with imprisonment of either description for a term which may extend to seven years, or with fine which shall not be less than double of the amount mentioned in the cheque, or with both; or
- (d) if the amount mentioned in the cheque is more than rupees ten million with imprisonment of either description for a term which may extend to ten years, or with fine which shall not be less than double of the amount mentioned in the cheque, or with both, unless he can establish, for which the burden of proof shall rest on him, that he had made arrangements with his bank to ensure that the cheque would be honoured and that the bank was at fault in not honouring the cheque."

3. **Amendment of Schedule II, Act V of 1898.**- In the Code of Criminal Procedure, 1898 (Act V of 1898), in Schedule II, for section 489F, in column 1 and the entries relating thereto in columns 2 to 8, the following shall be substituted, namely:-

"489F.	Dishonestly issuing a cheque	Ditto	Ditto	Ditto	Ditto	<p>(a) Imprisonment of either description upto 3 years, or fine which shall not be less than double of the amount mentioned in the cheque, or with both.</p> <p>(b) Imprisonment of either description upto 5 years, or fine which shall not be less than double of the amount mentioned in the cheque, or with both.</p> <p>(c) Imprisonment of either description upto 7 years, or fine which shall not be less than double of the amount mentioned in the cheque, or with both.</p> <p>(d) Imprisonment of either description upto 10 years, or fine which shall not be less than of double of the amount mentioned in the cheque, or with both.</p>	<p>(a) Magistrate of the First Class</p> <p>(b) Court of Session</p> <p>(c) Court of Session</p> <p>(d) Court of Session."</p>
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STATEMENT OF OBJECTS AND REASONS

Section 489F was added to cheque the menace of issuing cheques without making arrangements of funds for honouring such cheques by their bankers. However, deterrent effect of section 489F is losing its importance where the amount payable through cheques is in millions of rupees. Consequently, the punishment is neither proportionate to amount of cheque and even where there amounts in millions of rupees, makers of such cheques prefer to stay in prisons instead of showing any interest in repayment of their loans or other liabilities, etc. during business transactions. Thus, it is necessary to provide more effective punishments proportionate to amount of cheques so that section 489F should remain an effective measure to establish financial discipline and fulfillment of financial liabilities as the civil claims are not suitable remedy due to lengthy litigation process and lack of trust of people on system of dispensation of justice at least at subordinate judiciary level.

2. This Bill seeks to achieve the above-said objectives.

Sd/-
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