

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 Laws (Amendment) Act, 2018.

(2) It shall come into force at once.

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

“489 F. Dishonestly issuing a cheque.- Whoever dishonestly issues a cheque towards repayment of a loan or fulfillment of an obligation and which is dishonoured on presentation shall be punishable,-

- (a) if the amount mentioned in the cheque is less than one million Rupees, 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 one million Rupees or more but less than five million Rupees, with imprisonment of either description for a term which may extend to five years or with the 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 five million Rupees or more but less than ten million Rupees, 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 ten million Rupees or more, 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; and</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 double of the amount mentioned in the cheque or with both.</p>	<p>(a) Magistrate of the First Class</p> <p>(b) Court of Sessions</p> <p>(c) Court of Sessions</p> <p>(d) Court of Sessions”.</p>
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STATEMENT OF OBJECTS AND REASONS

Section 489F was added to check 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 amount is in millions of rupees. Consequently, the punishment is neither proportionate to amount of cheque and even where there amount 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 punishment 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 subordinate judiciary level.

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

Ms. Kishwer Zehra
Member-in-charge