

Issuance of Cheque with Insufficient Funds- The Legal Consequences

Written by: Mohamed Rabie

Issuing a cheque with no sufficient balance is considered an illegal and criminalized act pursuant to UAE Laws that were applied before the issuance of The Federal Decree-Law No. 14 issued in 2020 and started being effective and applied from 2nd January 2022, such decree came with major amendments to Federal Law No. 18 of 1993 Commercial Transactions and the criminal law in relation to the bounced cheques and for expediting and simplified procedures of claiming the bounced cheques amounts.

Since the majority of individuals, companies, and legal entities rely on the cheques in their daily business transactions the topic of discussion under this Article is the legal consequences of issuing a cheque with no sufficient funds from both criminal and civil law as the following:



Mohamed Rabie
Partner & Legal Consultant at
Hussain Lootah & Associates

A. From the criminal law perspective:

The Federal Decree-Law No. 14 of 2020 has considered the bounced cheque as decriminalized action, and there is no jail term unless fraud is proved. Article No. 641 of the said decree-law has listed the following cases that still come under the purview of criminal law:

1. If the drawer orders the bank to not cash the cheque before the due date.
2. If the drawer closes the account or withdraws the available balance prior to the due date.
3. If the drawer deliberately signs the cheque inaccurately.
4. If the drawer intentionally writes or signs the cheque in a way that prevents its cashing.

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Attorneys and Counselors at Law

The punishment for committing any of the above acts will attract both a jail term and a fine or either of them which is up to the discretion of the court. The prescribed jail term will be not less than 6 months but no more than 2 years and the fine are determined as either 10% of the cheque with a minimum of AED 5,000 with a cap set at two times the check amount.

B. From the civil law perspective:

The beneficiary of a bounced cheque, upon obtaining a certificate from the bank may take the following actions:

1. Open a civil execution file against the drawer of the cheque.
2. During the advanced stages of execution, the beneficiary has the right to:
 - a) Seize assets in the name of the drawer,
 - b) Should no assets be found, then the claimant can request a ban of travel, also an order for arresting the defendant.

Finally, the above-mentioned are the substantial consequences of issuing a cheque with no sufficient funds and have been briefed out of The Federal Decree-Law No. 14 of 2020.

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Hussain Lootah & Associates
Attorneys and Counselors at Law