

Federal Decree Law No. (14) of 2020
Amending Certain Provisions of the Federal Law No. (18) of 1993
Concerning the Commercial Transaction Law

We, Khalifa bin Zayed Al Nahyan, President of the United Arab Emirates,

- Pursuant to the perusal of the Constitution;
- The Federal Law No. (1) of 1972 On the Mandates of Ministries and Powers of Ministers, as amended;
- The Federal Law No. (3) of 1987 On the Promulgation of Penal Code, as amended;
- The Federal Law No. (10) of 1992 On the Evidence in Civil and Commercial Transactions, as amended;
- The Federal Law No. (11) of 1992 On the Promulgation of Civil Procedures Code, as amended;
- The Federal Law No. (35) of 1992 On the Promulgation of Penal Procedures Code, as amended;
- The Federal Law No. (18) of 1993 On the Promulgation of Commercial Transactions Code, as amended;
- The Federal Law No. (4) of 2000 Concerning the Emirates Securities and Commodities Authority and Market , as amended;
- The Federal Law No. (6) of 2010 Concerning Credit Information, as amended;
- The Federal Decree Law No. (5) of 2012 On Combating of Cybercrimes, as amended;
- The Federal Decree Law No. (7) of 2014 On Combating of Terrorism Crimes;
- The Federal Law No. (2) of 2015 On Commercial Companies, as amended;
- The Federal Decree Law No. (14) of 2018 On the Central Bank and the Regulation of Financial Facilities and Activities; and
- In accordance with the proposals of the Minister of Economy and as approved by the Council of Ministers,

We do hereby enact the following Decree by Law:

Article One

- A. First paragraph and Clause (4) of Article (379) as well as Articles (600), (617), (641), (642), (643), and (644) of the said Federal Law No. (18) of 1993 shall be replaced as follows:

First paragraph of Article (379):

A bank may open a joint account, including a deposit account or any other account, between two or more persons on an equal basis among them unless it is agreed otherwise as evidenced with the bank. The following provisions shall be observed in this respect:

Clause (4) of Article (379):

4. If a joint account holder dies or loses legal competence, the other joint account holders shall notify the bank of the same within ten days from the date of the death or the loss of competence. The bank shall suspend withdrawal from the joint account up to the share of the concerned account joint holder in the joint account's balance as on the date of the death or the loss of competence. Withdrawal from the share of the account joint holder who dies or loses legal competence shall not be allowed until successor is appointed.

Article (600)

1. Acceptance does not apply to cheques. Any wording of acceptance written on a cheque shall be null and void.
2. The drawee of a cheque may initial the cheque for approval. Such approval shall confirm the availability of sufficient fund with drawee to pay the value of the cheque as on the date of initialing. The signature of drawee on the face of the cheque shall constitute an approval.
3. The drawee may not reject the approval of the cheque if the drawer or bearer asks it to do so should the drawee have sufficient fund to partially or wholly pay the value of the cheque.
4. The drawee shall freeze with it and under its liability the required fund to pay the value of approved cheque, or the remaining amount of a partially paid approved cheque, for the benefit of the bearer until the expiry date of submitting the cheque for payment.

Article (617)

1. A cheque shall be due for payment on the date stated thereon as being its date of issue. A cheque may not be submitted for payment prior to such date.
2. Where the fund for payment is less than the value of the cheque, the drawee shall partially pay the value of the cheque up to the available fund unless the bearer rejects partial payment. In the case of partial payment, upon each partial payment, the drawee shall initial the back of the cheque confirming the partial payment and give back the original of the cheque to the bearer along with a certificate to that effect. Such certificate shall validate the right of the bearer to demand the payment of the remaining amount against the original of the initialed cheque as per Article (635) *Bis* of this Law or to submit a protest after the expiry of time limits provided for in Article (632) of this Law.
3. The drawee shall report the details of the account holder 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 fund for the payment of the value of cheque is available at the date of its maturity,
 - b. Where the drawer, after issuing the cheque, withdraw all the fund for payment so it is not possible to pay its value, or
 - c. Where the drawee partially pay the value of the cheque in accordance with (2) of this Article.

Article (641)

Whoever commits any of the acts bellow shall be subject to a penalty of no less than 10% of the cheque value, subject to the minimum of AED 5,000 (AED Five Thousand), and no more than twice the cheque value:

- a. Declaring deliberately and contrary to the truth that no fund for payment of the cheque value is available or that the fund available is less than the cheque value.
- b. Rejecting in bad faith the payment of a cheque drawn on the bank where the fund is available to a bearer to whom a valid protest has not been made.
- c. Refusing to write the statement provided for in Article (632) of this Law.
- d. Rejecting partial payment of the cheque value, issuing a certificate to this effect, or giving back the original of the cheque as per the provisions stipulated in (2) of Article (617) of this Law.

Article (642)

Where the Court convict a defendant for any of the crimes provided for in Articles (641) *Bis* (1) to (641) *Bis* (3) of this Law, it may order the publication of judgment synopsis at the expense of convicted defendant 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 through the decision of the Ministry of Justice, one in Arabic and one in English. The published synopsis shall include- in all cases- the convicted defendant's name, address, profession, and ordered penalty. Publication shall be compulsory in case of repetition of conviction for the crime provided for in Article (641) *Bis* (4) of this Law.

Article (643)

Where the Court convicts a defendant for any of the crimes provided for in Articles (641) *Bis* (1), (641) *Bis* (2) of this Law, it may order the withdrawal of existing chequebook from the convicted defendant and preventing him from obtaining any further chequebooks for up to five years.

Convicted defendant who does not surrender his existing chequebooks to respective banks within fifteen (15) days from notifying him to do so shall be sentenced to a penalty of no less than AED 50,000 (AED Fifty Thousand) and no more than AED 100,000 (AED One Hundred Thousand).

Any bank which violates the order provided for in the above two paragraphs of this Article shall be sentenced to a penalty of no less than AED 100,000 (AED One Hundred Thousand) and no more than AED 200,000 (AED Two Hundred Thousand).

Article (644)

Where a penal action is brought against the drawer for any of the crimes related to cheques provided for in this Law, such an action shall not prejudice the coercive enforceability of the cheque or any judicial remedies as per the provisions, procedures and rules provided for in Article (635) *Bis*, nor such action shall prejudice the right of the beneficiary or the bearer of the cheque to claim compensation as per the procedures legally applicable.

b. As an exception to the provisions of Article Four below, amendments of Article (379) of the Commercial Transactions Law, as provided for in Clause (a) of this Article shall be applicable starting from the next day after the date of publishing of this Decree by Law.

Article Two

New articles numbered (635) *Bis*, (641) *Bis* (1), (641) *Bis* (2), (641) *Bis* (3), (641) *Bis* (4), (643) *Bis* (1), (643) *Bis* (2), (644) *Bis* (1) and (644) *Bis* (2) shall be added to the said Federal Law No. (18) of 1993 as follows:

Article (635) *Bis*

A cheque, which bears the drawee's stamp as non-paid for unavailable or insufficient fund, shall constitute an executive instrument as per the Executive Regulation of the Federal Law No. (11) of 1992 and its bearer shall have the right to demand the coercive enforcement, wholly or partially.

With respect to its enforcement and dispute related to it, provisions, procedures and rules provided for in the said Executive Regulation shall apply.

Article (641) *Bis* (1)

Whoever endorses or delivers a bearer cheque while knowing that there is sufficient funds to pay such cheque or that such cheque may not be drawn shall be subject to a penalty of no less than 10% of the cheque value, subject to the minimum of AED 1,000 (AED One Thousand), and no more than the cheque value.

The penalty shall be double in case of repetition.

Article (641) *Bis* (2)

Whoever commits any of the acts bellow shall be subject to the punishment of imprisonment for no less than six months and no more than two years in addition to a penalty of no less than 10% of the cheque value, subject to the minimum of AED 5,000 (AED Five Thousand) and no more than twice the cheque value, or any of the two punishments:

1. Ordering or asking the drawee, prior to due date, not to pay the value of a cheque he has issued, with the exception of the cases provided for in Articles (620) and (625) of this Law.
2. Closing the account or withdrawing all available fund therein before issuing the cheque or before presenting the cheque for payment or if the account has been frozen.
3. Deliberately writing or signing the cheque in a way that make it unpayable.

Penalty shall double in case of repetition.

Article (641) *Bis* (3)

Whoever commits any of the acts bellow shall be subject to the punishment of imprisonment for no less than one year in addition to a penalty of no less than AED 20,000 (AED Twenty Thousand) and no more than AED 100,000 (AED One Hundred Thousand):

1. Forgery or counterfeiting of a cheque or attributing it to a third party by changing details through addition, deletion or other means as provided for in Article (216) of the said 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 counterfeit cheque.
3. Knowingly accepting funds paid through a forged or counterfeit cheque.

4. Using a true cheque issued in the name of others, inappropriately benefiting from it, or using it in relation to a crime of fraud.
5. Knowingly, importing, manufacturing, holding, selling, offering or providing any tools, equipment, software, information or data used in a crime of forgery as provided for in this Article.

Article (641) Bis (4)

Subject to any severer punishment provided for in any other law, the punishment of life imprisonment in addition to a penalty of no less than AED 500,000 (AED Five Hundred Thousand) and no more than AED 1,000,000 (AED One Million) shall apply for any crime provided for in Article (641) Bis (3) of this Decree Law committed for the objective of terrorism.

Article (643) Bis (1)

Without prejudice to the rights of third parties of good faith, where the Court convict a defendant for any of the crimes provided for in Article (641) Bis (3) of this Law, it shall order the confiscation of items seized due used in such crime.

In any case, the Court shall order the confiscation of the said items where using, holding, owning, selling or offering for sale such items constitute a crime, even when they are not the property of the defendant.

Where it is not possible to seize any of the items mentioned herein or it is not possible to confiscate them because they relates to the rights of third parties of good faith, the Court shall order a penalty equal to their value at the time of committing the crime.

Article (643) Bis (2)

Where the Court convict a defendant for any of the crimes provided for in Articles (641) to (641) Bis (4) of this Decree by Law, it may prohibit the convicted defendant from conducting any professional or commercial business for up to three (3) years if the crime committed in relation to or due to conducting the business.

Whoever repeat committing the same crime after having been prohibited in accordance with the above paragraph of this Article, shall be subject to imprisonment for no less than one year and a penalty of no less than AED 50,000 (AED Fifty Thousand) and no more than AED 100,000 (AED One hundred Thousand) or any of them.

Article (644) Bis (1)

Where a crime provided for in this chapter is committed in the name or for the benefit of a corporate person, the person in charge of actual administration shall not be liable to punishment unless it is evident that such 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 natural 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 of it. The Court may order the suspension of the legal person's business for no more than six months, and in case of repetition, cancelation of trade license and insolvency of the legal person. The Court shall order the publication of judgment at

the expense of 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 through the decision of the Ministry of Justice, one in Arabic and one in English.

The Court may order any other punishments legally applicable.

Provisions of the second paragraph of this Article shall not apply to licensed financial establishments subject to the said Federal Decree Law No. (14) of 2018.

Article (644) Bis (2)

Penal lawsuit with respect to the crimes provided for in Article (641) *Bis* (1) and Article (641) *Bis* (2) of this Decree by Law shall expire if the full or remaining cheque value is paid before the initiation of coercive enforcement procedures as provided for in Article (635) *Bis* of this Decree by Law or should the full or remaining cheque value is paid or a reconciliation is reached before the issuance of final judgement. If a reconciliation is reached after the issuance of a final judgement, the execution of the judgement shall be suspended.

Article Three

1. Articles (401), (402) and (403) of the Federal Law No. (3) of 1987 on the Promulgation of the said Penal Code shall be null and void.
2. Any other provisions contradicting the provisions of this Decree by Law shall be null and void.

Article Four

This Decree by Law shall be published in the Official Gazette and shall come into force on 2 January 2022.

Khalifa bin Zayed Al Nahyan

President of the United Arab Emirates

Issued by us at the Presidential Palace in Abu Dhabi:

Date: 10 Safar 1442 H.

Corresponding to 27 September 2020