PART III

Other Notifications, Orders, etc.

SENATE SECRETARIAT

Islamabad, the 8th May, 2019

No. F. 24(09)/2019-Legis.— The following Bills were introduced in the Senate on 6th May, 2019:—

SENATE BILL NO. XIII OF 2019

A

BILL

_further to amend the Anti-Money Laundering Act, 2010 (VII of 2010)_

WHEREAS it is expedient further to amend the Anti-Money Laundering Act, 2010 (VII of 2010) for the purposes hereinafter appearing:

It is hereby enacted as follows:—

985 (1—10)

_Price: Rs. 20.00_

[792(2019)/Ex. Gaz.]
1. **Short title and commencement.**—(1) This Act may be called the Anti-Money Laundering (Amendment) Act, 2019.

(2) It shall come into force at once.

2. **Amendment of section 21, Act VII of 2010.**—In the Anti-Money Laundering Act, 2010 (VII of 2010), in section 21:

(a) in the Heading for the word “non-cognizable” the word, “cognizable” shall be substituted; and

(b) in sub-section (1), in paragraph (a), for the word “non-cognizable” the word, “cognizable” shall be substituted.

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**STATEMENT OF OBJECTS AND REASONS**

Money Laundering has potentially devastating economic, security, and social consequences. It provides the fuel for drug dealers, terrorists, illegal arms dealers, corrupt public officials, and others to operate and expand their criminal enterprises. This crime has become increasingly international in scope, and the financial aspects of crime have become more complex due to rapid advances in technology and the globalization of the financial services industry.

Money laundering statutes make it a crime to transfer money derived from almost any criminal activity (including organized crime, white-collar offenses, terrorist activities, and drug transactions) into seemingly legitimate channels, in an attempt to disguise the origin of the funds. As it is a serious crime hence it must be cognizable. The offence is cognizable which means arrest can be made without a warrant. Our country law does not regard it cognizable therefore the said bill has been proposed.

The bill has been designed to achieve the above purpose.

SENATOR MIAN MUHAMMAD ATEEQ SHAIKH,
Member-In-Charge.
SENATE BILL NO. XIV OF 2019

BILL

further to amend the Negotiable Instruments Act, 1881

WHEREAS it is expedient further to amend the Negotiable Instruments Act, 1881 (XXVI of 1881) for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title and commencement.— (1) This Act may be called the Negotiable Instruments (Amendment) Act, 2019.

(2) It shall come into force at once.

2. Insertion of new sections 131CA and 131CB, Act XXVI of 1881.— In the Negotiable Instruments Act, 1881 (XXVI of 1881), after section 131C the following new sections shall be inserted, namely:

“131CA. Dishonor of cheque for insufficiency, etc., of funds in the accounts.— Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honor the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall without prejudice to any other provisions of this Act, be punished with imprisonment for a term which may extend to 3 to 10 years depending upon the amount of the cheque, or with fine which may extend to twice the amount of the cheque, or with both:

Provided that nothing contained in this section shall apply unless,—

(a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;

(b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice, in writing, to the drawer of the
cheque, within fifteen days of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and

(c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice.

Explanation: For the purpose of this section, “debt or other liability” means a legally enforceable debt or other liability.

131CB. Payment of Interim Compensation to the complainant:

(i) In case of a summary trail or a summons case, where the drawer pleads not guilty to the allegations made in the complaint; and

(ii) In any other case, upon framing of the charges.

Quantum of Compensation.—The compensation amount shall not exceed 20% of the amount of the Cheque.

On Acquittal.—In case where the drawer is acquitted then the payee may be directed to refund the entire amount of interim compensation along-with the prevailing interest rate in the country, to the drawer.

Time Frame.—The interim compensation shall be paid within 60 days from the date of the order by the court which may be further extended by an additional period of 30 days, subject to the sufficient reasons being shown.”

STATEMENT OF OBJECTS AND REASONS

Due to absence of some strict laws, cheque fraud, mainly comprising bounced and dishonoured cheques, is emerging as the fastest growing financial crime all over the country as well as in the federal capital with the city police stations registering around 100 such cases every month, reveals the data. The law and prosecution experts believe that the toothless prevailing laws encourage the individuals to commit cheque fraud. On the other side, the increasing crime puts an extra work load on the already overburdened police of the city. The experts were of the view that the criminals did not bother about the consequences of the fraud due to the less punishment for the crime.

2. According to the proposed amendments in this Bill if the cheque issuer fails to make a fresh payment within 30 days of receiving the notice, the
payee has the right to a criminal complaint under section 131CA of the Negotiable Instruments Act. However, the complaint should be registered in a magistrate's court within a month of the expiry of the notice period. It has been defined in section 131CA of the Negotiable Instruments Act, 1881, as any cheque drawn by a person in payment to another person, which is returned to the bank unpaid because there are insufficient funds in the account or the amount exceeds the prescribed limit.

3. This Amendment Bill would come across as a relief for the Payee of the Cheque, who has to spend a significant amount of time and energy in the court to recover the money due to him in a Cheque bounce case. Presently our trading community is facing so many issues relating to pendency of cheque dishonour cases. This is because of delay tactics of unscrupulous drawers of dishonoured cheques due to easy filing of appeals and obtaining stay on proceedings.

4. The Negotiable Instruments Act, 1881, was enacted to characterize and define the law relating to authoritative records like Promissory Notes, Bills of Exchange and Cheques. Over the years, certain amendments are required in it to deal with the changing times, keeping in view the common goal of rapid disposal of cases identifying with the offence of dishonour of cheques. However, the pendency ratio of cheque dishonour cases still remains a critical issue and adversely affects the cash flows of businesses particularly Small and Medium sized Enterprises (“SMEs”).

5. It is observed that one of the main reasons that plagues the system, roots down to the mala fide strategies of corrupt drawers of dishonoured cheques towards evading and abusing the process of law, eventually harming the innocent payees of the dishonor.

6. The insertion of new provisions in the NI Act aims at addressing the issue of undue delay in finality of cheque dishonor cases. It is believed that the amendment will strengthen the credibility of cheques and help trade and commerce in general. Through amendment 131CB an appeal by the drawer against conviction under section 131CB of the NI Act, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty percent of the fine or compensation awarded by the trial Court.

The Bill has been designed to achieve the above purpose.

SENATOR MIAN MUHAMMAD ATEEQ SHAIKH,
Member-In-Charge.
SENATE BILL NO. XV OF 2019

A BILL

further to amend the Companies Act, 2017

WHEREAS it is expedient further to amend the Companies Act, 2017 (XIX of 2017), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Companies (Amendment) Act, 2019.

(2) It shall come into force at once.

2. Amendment of section 240, Act XIX of 2017.—In the Companies Act, 2017 (XIX of 2017), in section 240, in sub-section (1), for the word “may”, the word “shall” shall be substituted.

STATEMENT OF OBJECTS AND REASONS

At present, under the Companies Act, 2017, declaration of dividend by the Company is not binding. The Board of the Directors of the Company decides whether to pay dividend or reinvest the profit earned by a Company. As per annual report of the Karachi’s Stock Exchange (KSE), 2010-2018, out of 562 listed companies only 246 paid dividends to their shareholders while as many as 114 did not despite earning profit. This amendment aims to amend section 240 of the Companies Act, 2017, to provide for mandatory declaration of dividends for the protection of interests of the shareholders, specially the minority shareholders and to ensure that in the event of profit, they are paid a dividend after its declaration by the Board of Directors of the Company.

The proposed amendment is designed to achieve the aforesaid objective.

SENATOR GHOUS MUHAMMAD KHAN NIAZI,
Member-in-Charge.
SENATE BILL NO. XVI OF 2019

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 (XLV of 1860) and the Code of Criminal Procedure, 1898 (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, 2019.

(2) It shall come into force at once.

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

“489F. 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 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 is not honouring the cheque.”.

3. **Amendment of Schedule II, Act V of 1898.**—In the Code of Criminal Procedure, 1898 (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:—

<table>
<thead>
<tr>
<th>No.</th>
<th>Dishonestly issuing a cheque</th>
<th>Ditto</th>
<th>Ditto</th>
<th>Ditto</th>
<th>Ditto</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td>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;</td>
<td>Ditto</td>
<td>Ditto</td>
<td>Ditto</td>
<td>Ditto</td>
</tr>
<tr>
<td>(b)</td>
<td>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;</td>
<td>Ditto</td>
<td>Ditto</td>
<td>Ditto</td>
<td>Ditto</td>
</tr>
<tr>
<td>(c)</td>
<td>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; and</td>
<td>Ditto</td>
<td>Ditto</td>
<td>Ditto</td>
<td>Ditto</td>
</tr>
<tr>
<td>(d)</td>
<td>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.</td>
<td>Ditto</td>
<td>Ditto</td>
<td>Ditto</td>
<td>Ditto</td>
</tr>
</tbody>
</table>

(a) Magistrate of the First Class |
(b) Court of Sessions |
(c) Court of Sessions |
(d) Court of Sessions

**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, markers 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 fulfilment of financial liabilities as the civil claims are not suitable remedy due to lengthy litigation at sub-ordinate judiciary level.

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

SENATOR MIAN MUHAMMAD ATEEQ SHAikh,
Member-in-charge.

SENATE BILL NO. XVII OF 2019

A

BILL

further to amend the Constitution of the Islamic Republic of Pakistan, 1973

WHEREAS it is expedient further to amend the Constitution of the Islamic Republic of Pakistan for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Constitution (Amendment) Act, 2019.

(2) It shall come into force at once.

2. Substitution of Article 84 of the Constitution.—In the Constitution of the Islamic Republic of Pakistan, 1973, for Article 84, the following shall be substituted, namely:—

“84. Supplementary grants.—If in respect of a financial year, in the event of unforeseen and un-avoidable necessity, it is found,—

(a) that the amount authorized to be expended for a particular service for that financial year is insufficient; or

(b) that a need has arisen for expenditure upon some new service not included in the Annual Budget Statement for that financial year;
the Federal Government shall, subject to prior approval through resolution by the National Assembly, have power to authorize expenditure from the Federal Consolidated Fund, whether the expenditure is charged by the Constitution upon that Fund or not, and shall cause to be laid before the National Assembly a Supplementary Budget Statement, setting out the amount of that expenditure, and the provisions of Articles 80 to 83 shall apply to that statement as they apply to the Annual Budget Statement:

Provided that in case of grave emergency in which the security of Pakistan, or any part thereof, is threatened by war or external aggression, or by internal disturbance beyond the power of a Provincial Government to control, or a proclamation of emergency has been issued in pursuance to Article 232, and it is found that the time to be consumed in fulfilling the condition of resolution by the National Assembly will cause huge loss to Pakistan or any part thereof, the Federal Government shall have power under this Article without the prior approval through resolution by the National Assembly."

STATEMENT OF OBJECTS AND REASONS

The practice of authorizing supplementary budgets or excess budgets without prior assent from the Parliament is being used randomly and increasingly frequently in Pakistan. This practice is against the well-established principles of annual budget appropriation and procedures authorized by Parliament, adding uncertainty to economic planning and oversight in the country. Not only does this practice create audit disparity due to expenditures in excess it bypasses the crucial principle of prior approval from Parliament. If the national exchequer needs to be managed with prudence this haphazard and non-transparent mode of planning will have to be abolished as it is detrimental to economic stabilization in the country as well as sovereignty of the Parliament. Through this Bill, Article 84 will be substituted with a new Article which will curtail the practice of expenditures in excess and that of supplementary grants, except in dire need or uncertainty.

The Bill has been designed to achieve the aforesaid objectives of Parliamentary assent and oversight to financial allocation.

SENATOR SHERRY REHMAN,
Minister-In-Charge.

AMJED PERVEZ,
Secretary General.