

You can be detained, fined for dishonoured cheque



LEGAL VIEW
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Q: My father is a shareholder in the share capital of a limited liability company (LLC) incorporated in the UAE. He has a debt of approximately Dh700,000 for the loans/facilities availed from a bank by the LLC. The company has been incurring loss in business and therefore, he is unable to repay the loan to the bank. What could be the consequences if he is unable to make the payment or if the cheque is dishonoured?

A: In the event of non-repayment of loan/facilities amount, the bank may proceed by filing civil proceedings against the LLC before the courts of competent jurisdiction for recovery of the unpaid loan/facilities amount.

The bank may also file a criminal complaint for dishonour of a cheque. Upon dishonour, the bank may lodge a criminal complaint against the signatory of a cheque with the public prosecution or at the police station having jurisdiction in accordance with Article 401 of Federal Law No. 3 of 1987 on issuance of Penal Code (the "Criminal Law") of UAE which states: "Detention or a fine shall be imposed on anyone who, in bad faith, gives a draft (cheque) without a sufficient and drawable balance or who, after giving a cheque, withdraws all or part of the balance, making the balance insufficient for settlement of the cheque, or if he orders a drawee not to cash a cheque or makes or signs the cheque in a manner that prevents it from being cashed.

"The same penalty shall apply to anyone who endorses a cheque in favour of

another or gives him a bearer draft, knowing that there is no sufficient balance to honour the cheque or that it is not drawable."

In view of the aforesaid, the public prosecution or the court shall decide whether to impose a fine or imprisonment or both against the signatory of the cheque.

Further, based on the aforementioned dishonoured cheque, loan/facilities sanction letters, loan documents, facilities agreements and outstanding bank statements of the borrower, the bank may initiate a commercial proceedings against the borrower for non-repayment of the loan/facilities under the provisions of Federal Law No. 18 of 1993 on the Issuance of The Commercial Transactions Law. In the event the borrower is not able to re-pay the debt in accordance with the judgment of the court, the court shall commence execution proceedings against the LLC and eventually against the shareholder of the LLC.

File complaint with ministry if employment visa is not cancelled

Q: I am a taxi driver working in Abu Dhabi for 18 months. My employer recently informed me that he was considering terminating my employment contract due to poor performance. I explained to him that I was physically abused by one of the passengers but my employer did not support me and expected me to resign.

I felt forced to quit and handed over one month's notice on January 22, 2018 informing him that February 22, 2018 shall be my last working day. I did not seek my end of service benefits but only air ticket fare to return to my country. My employer till date has not cancelled my visa nor has he provided me with air ticket. What should I do?

A: If you have served your employer with notice period as mentioned in your employment contract registered with Ministry of Human Resources and Emiritisation, you are entitled to all your end of service

Know the law



If you have served your employer with notice period as mentioned in your employment contract, you are entitled to all your end-of-service benefits, including unpaid salaries, salaries for annual leaves not availed, severance pay and air ticket. Moreover, an employer in the UAE cannot hold your passport without your written consent.

benefits, including unpaid salaries, salaries for annual leaves not availed, severance pay and air ticket. Further, an employer in the UAE cannot hold your passport without your written consent. Since you have completed your notice period in the month of February 2018 and despite your repeated requests to cancel your employment visa your employer has not fulfilled his obligations, you may approach the Ministry and file a complaint against the employer for not cancelling your employment visa, non-payment of your end of service benefits and for holding your passport without your consent.

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Know the law



Detention or fine shall be imposed on anyone who gives a draft (cheque) without a sufficient and drawable balance or who, after giving a cheque, withdraws all or part of the balance, making the balance insufficient for settlement of the cheque, or if he orders a drawee not to cash a cheque or makes or signs the cheque in a manner that prevents it from being cashed



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