



A Study Entitled

**“Implications of the Amending
Decree for the UAE Federal Law
Number 8 of 1980”**

UAE Federal Law Number 8 of 1980

On 26 October 2020, the UAE Cabinet (the **Council of the Ministers of the UAE**) announced the federal law decree (the **Amending Decree**) amending the UAE Federal Law Number 8 of 1980 concerning the Commercial Transactions regarding the provisions of the bounced or dishonoured cheques.

Since the provisions regulating the bounced or dishonoured cheques are connected to the Commercial Transactions Law and the UAE Penal Code, we predicted that the relative laws thereof would be amended.




Commencement of the Amending Decree

The effective date of the federal law decree amending the UAE Federal Law Number 8 of 1980:

The Amending Decree has not yet been published in the official gazette. The publication and enforcement is scheduled for 2022.

The fact that the Council of the Ministers of the UAE announced the amendments to the Provision without publishing the Amending Decree, means that they adopted the issuance of Amending Decree for the UAE Federal Law Number 8 of 1980.



This study is based on the news published in a local newspaper, since the Amending Decree has not been determined with any particular articles.

Amendments

for dishonored cheques

REDEFINE

Redefined the incrimination cases concerning the cheques:

- ✓ Forgery of cheques;
- ✓ Fraudulence by issuing an order to a bank to not clear the cheque without any justified reason;
- ✓ Balance withdrawals before the cheque due date;
- ✓ Deliberate release or signing of the cheques in a way that prevents the cheque to be encashed



PROMOTE

Promoted the dishonored cheques as an execution deed wherein the claimant can initiate the execution proceedings forfeiting without raising the claim before the court of competent jurisdiction.



REQUIRE

Requires the drawee bank to clear part of the cheque value, as per the balance in the bank account, for the beneficiary



DELETE

Deleted the incrimination of the dishonored cheques in the UAE Penal Code except the cases mentioned hereinbefore



Amendments

for sanctions



✓ Prohibition

Checkbook withdrawal and prohibit to issue any checkbook for the offender for 5 (five) years maximum.



✓ Cessation

Ceasing the commercial or professional activity



✓ Penalties

Financial penalties /fines and license cessation for 6 (six)month or cancellation or dissolution in the event of repetition for judicial persons and sole establishments except for the banks and financial institutions

Legal Opinion

It is our strong opinion that the legislators have introduced a new definition for incrimination of dishonoured or bounced cheques; which accordingly is that:



No police case can be filed against the dishonoured cheques other than the defined cases hereinabove



It is predicted to augment the imposed sanctions in the defined cases hereinabove starting from imprisonment and fines, following with the withdrawal of the chequebook and prohibiting the issuance of any chequebook for the offender for five (5) years maximum, ceasing the commercial or professional activity, license cessation for six (6) months or cancellation or dissolution in the event of the repetition of the act



In the event of the dishonoured cheques, in cases other than the ones defined hereinabove; pursuant to the Amending Decree; one cannot proceed with lodging a police case; whereas the Amending Decree promoted the cheques as an execution deed where one can initiate the execution proceedings forfeit without bringing the claim before the commercial court via the petition for payment order



This promotion saves time and cost where the cost will be between 1.5% and 2% of the claim value, capped at AED 3000 to AED 5000 as per *ratione loci*. This cost or any other costs borned shall be added to the executed value and reimbursed during the course of execution

Course of work



REGISTER

*Register the execution statement at the competent court as per *ratione loci**

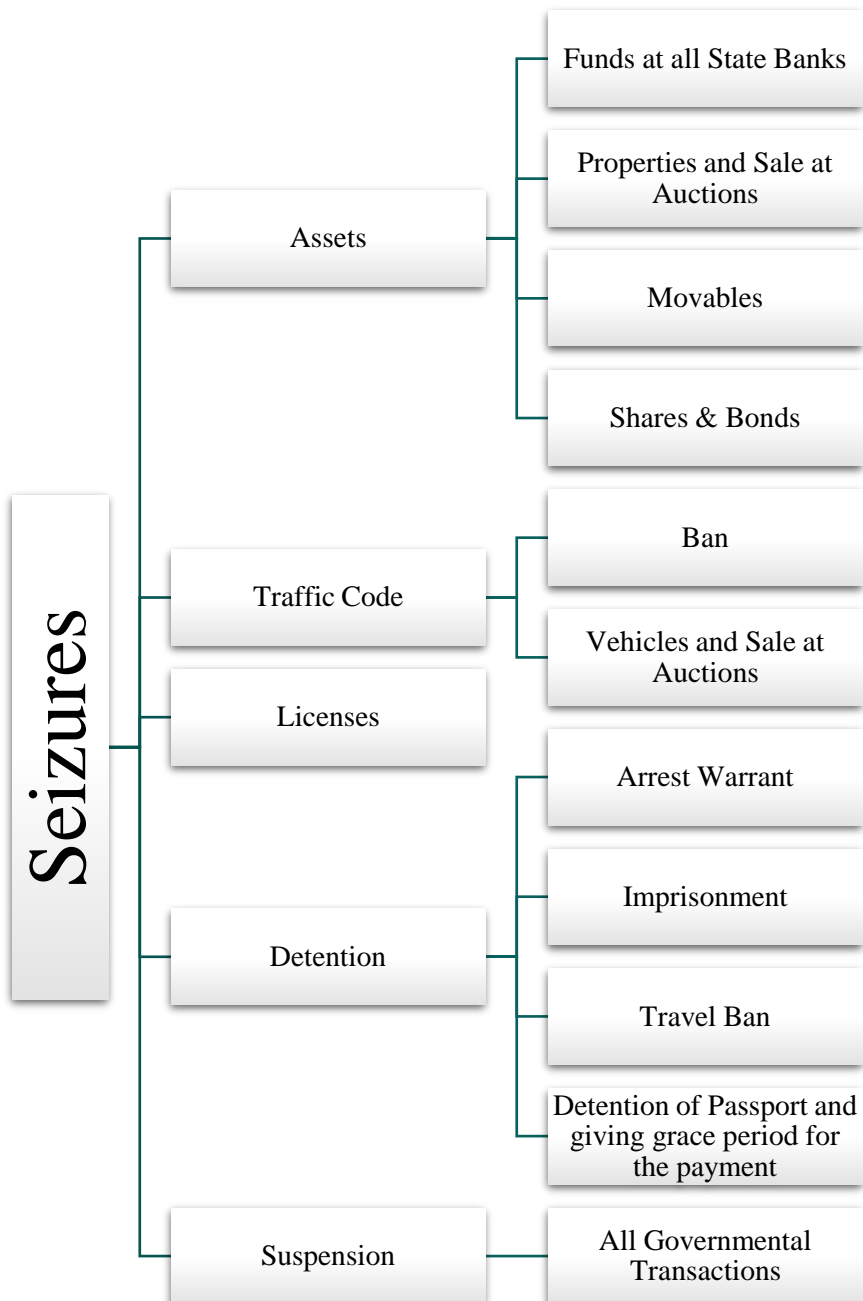
Serving notice to the other party with the execution statement, giving 15 days (time limit) from the date of serving the notice to honour the executed value.



SERVING

Consequences

of dishonouring the Execution Statement within the time limit



Nota Bena:

- ❖ Pursuant to the latest amendment of the Federal Civil Procedural Law; the execution shall not be suspended by submission of any objection whatsoever; nevertheless, the objection is relevant to a dispute on merits where the objector should pay 6% of the executed value and indemnity of AED 5,000 in the event the objection gets approved.
- ❖ The execution is debated by either the payment or waiver or lapse of 15 years from the date of the last procedure has taken.

Closing statements

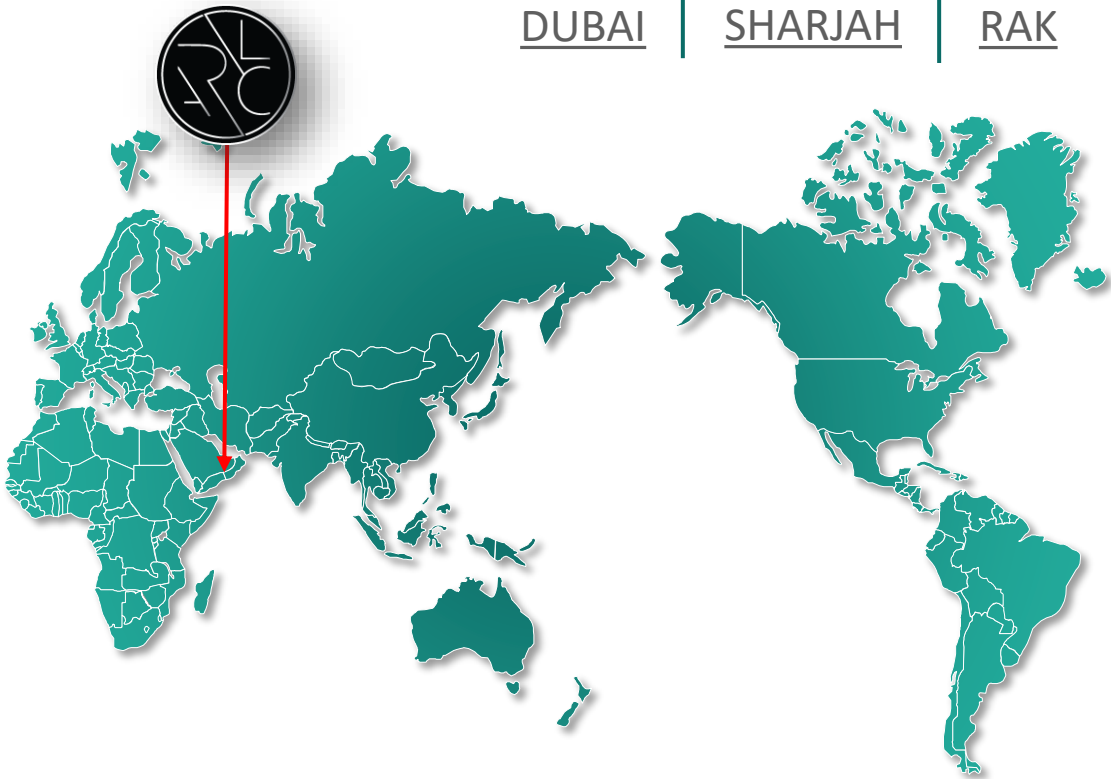
This study is a personal opinion and an interpretation. It does not represent the Amending Decree's interpretation since the announcement is free of any provisions.

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