

A BILL

FOR

AN ACT TO AMEND THE DISHONOURED CHEQUES (OFFENCES) ACT CAP D11, LAWS OF THE FEDERATION OF NIGERIA, 2004 TO ADDRESS THE LOOPHOLES IN THE ACT, TO REVIEW THE PENALTIES AND OTHER RELATED MATTERS

Sponsored by Hon. Busayo Oluwole Oke

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria -

1 1. The Dishonoured Cheques (Offences) Act Cap. D11, Laws of
2 the Federation of Nigeria, 2004 (in this Bill referred to as "the Principal
3 Act") is amended as set out in this Bill. Amendment of
the Principal Act

4 2. Section 1(a) of the principal Act is amended by inserting "credit
5 services or" after the word "of" in line 1. Amendment of
Section 1

6 Section 1(b) of the Principal Act is amended by substituting 1(b) with a new
7 subsection 1(b) as follows-

8 "obtaining credit for himself or any other person, by means of a cheque,
9 when presented for payment not later than six months after the date of the
10 cheque is dishonoured, on the grounds that no funds or insufficient funds
11 were standing to the credit of the drawer of the cheque on which the cheque
12 was drawn that the-

13 (i) account is dormant or non-existent,

14 (ii) drawer of the cheque exceeds the amount authorized or
15 agreed by the drawer with the drawee,

16 (iii) drawer countermands or stops payment of a cheque
17 without prior notice of such stoppage to the payer, or

18 (iv) Mandate is irregular";

19 commits an offence and on conviction shall be liable to -

1 (a) in the case of an individual, a fine of ₦500, 000.00; and
 2 (b) in the case of a body corporate, a fine of-
 3 (i) small company ₦1, 000, 000,
 4 (ii) big company ₦5, 000, 000,
 5 (iii) statutory corporation ₦ 1, 000,000 or equivalent of two times the
 6 value of the cheque or whichever is higher".

Amendment of
Section 3

7 3. Section 3 (1) of the Principal Act is amended by inserting after the
 8 word " State" the words " Federal High Court".

Insertion of new
"Section 4"

9 4. The Principal Act is amended by inserting after the existing
 10 "Section 3" new "Section 4" as follows-

"Service of
Notice"

11 "4(1) Where a cheque is dishonoured on the ground as provided in
 12 Clause 1 of this Bill, a notice shall be issued and served by the drawee on the
 13 drawer of the cheque stating the reason for the dishonor of the cheque and a
 14 certified copy of the notice shall be issued to the person who presented the
 15 cheque within four (4) clear days commencing from the date of the dishonor.

16 (2) A drawee who fails to comply with the provisions of the sub clause
 17 (1) of this Clause is guilty of an offence punishable with a fine of five hundred
 18 thousand naira (₦ 500, 000)".

Insertion of
Section 5
"Interpretation"

19 5. The Principal Act is amended by inserting new "Clause 5" as
 20 follows-

21 "5 in this Bill-

22 "Big Company" means company with a share capital of not less than fifty
 23 million Naira;

24 "Cheque" is a document that orders a bank to pay a specific amount of money
 25 from a person's account to the person in whose name the cheque has been
 26 issued;

27 "Dishonoured Cheque" means cheque returned unpaid by the bank on which it
 28 was drawn due to lack of sufficient funds or any other reason;

29 "Drawer" means a person who orders a bank to withdraw money from an
 30 account to pay a designated person a specific sum according to the term of a bill

1 or cheque;

2 "Drawee" means a person to whom a bill of exchange or cheque is
3 addressed, and who is requested to pay the amount of money therein
4 mentioned;

5 "Small Company" means company with a share capital of one million and
6 not more than fifty million Naira;

7 "Statutory Corporation" means a corporation established by statute.

8 6. This Bill may be cited as Dishonoured Cheques (Offences) Act Citation
9 (Amendment) Bill, 2015.

EXPLANATORY MEMORANDUM

This Bill seeks to amend Dishonoured Cheques (Offences) Act Cap D11, Laws of the Federation of Nigeria, 2004 to address the loopholes in the existing Act and to review the penalties, considering the present economic realities by making it stiffer so as to serve as deterrence to prospective offenders.