Amendment to the Banking Offence and Punishment Act, 2064: A Step Toward Modernizing Nepal's Banking Legal Framework

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Abstract:

The recent amendment to the Banking Offence and Punishment Act, 2064 (2008) marks a major legislative shift in the regulation of cheque-related offences in Nepal. By harmonizing procedural rules, reducing punitive excesses, and introducing structured enforcement mechanisms, the reform aims to balance justice, economic efficiency, and regulatory integrity. This article provides a comprehensive analysis of the amendment and its legal, economic, and institutional implications.

Introduction:

Nepal's financial sector has long faced challenges in effectively addressing cheque dishonor cases (popularly termed as "cheque bounce") and other banking-related crimes. In response to the need for coherent legal mechanisms and fairer enforcement practices, the Government of Nepal introduced an amendment to the Banking Offence and Punishment Act, 2064, published in the Nepal Gazette on May 7, 2025. The amendment brings systemic reforms by repealing overlapping legal provisions, tightening procedural timelines, and streamlining enforcement.

Key Amendments and Legal Developments

Repeal of Section 107(ka) of the Negotiable Instruments Act, 2034

One of the most transformative changes is the repeal of Section 107(ka) of the Negotiable Instruments Act, 2034, which previously allowed victims of cheque bounce to file complaints directly in court. With this change, all dishonored cheque cases must now be channeled through police investigation under the Banking Offence and Punishment Act, 2064, thereby standardizing the process and removing parallel legal pathways.

Procedural Reform for Dishonored Cheques

The amended Act mandates a new procedural timeline:

- Upon dishonor, the concerned bank must issue a notice to the account holder, requiring the due amount to be deposited within 45 days.
- If unresolved, the bank must certify the dishonor within 3 days and return the cheque to the payee.
- The Nepal Rastra Bank (NRB) is tasked with developing uniform operational guidelines to ensure nationwide consistency across financial institutions.

Reduction in Limitation Period

The time limitation for initiating complaints has been significantly revised:

- **Filing Period:** Reduced from five years to one year from the date of the offence.
- **Court Registration Deadline:** A Complaint must be formally submitted to the District Court within six months of filing with the police.

This compels both complainants and the justice system to act promptly, reducing pendency and improving case resolution.

Proportional Penalty System:

The amendment introduces a graded punishment framework based on the cheque amount, promoting the principle of proportionality in sentencing:

Cheque Amount (NPR)	Imprisonment Term
Upto 1.5 Million	1 Month
1.5 Million - 5 Million	3 Months
5 Million- 10 Million	1 Year
10 Million-100 Million	2 Years
Above 100 million	4 Years

The fine has been reduced from 100% to 5% of the cheque amount, alleviating the financial burden while maintaining deterrence

Out-of-Court Settlement Option

For the first time, the law formally recognizes mutual settlement of cheque-related disputes without invoking criminal prosecution. This provision, if implemented with robust procedural safeguards, is expected to reduce judicial backlog and encourage amicable resolution.

Implications for Stakeholders

A. Business Community

- The reduced fine and clearer process provide relief to SMEs, which often face liquidity issues.
- The shorter limitation periods, however, require timely legal and financial diligence.
- The settlement option could minimize reputational risks and operational delays.

B. Banks and Financial Institutions (BFIs)

- Banks must now play an active role in early communication and certification of dishonored cheques.
- Implementation requires technological upgrades and staff training.
- A shift toward digital transactions is likely, as institutions seek to minimize cheque-related risks.

C. Law Enforcement and Judiciary

- Increased police workload necessitates additional training and resource allocation.
- Courts must ensure expedited processing to meet statutory timelines.
- Effective coordination among Nepal Police, NRB, and judiciary will be essential.

D. Economic and Regulatory Landscape

- Fairer punishments and faster adjudication can enhance trust in the financial system.
- Risks of misuse remain, especially due to the absence of mandatory fund source verification, potentially opening doors to money laundering.

Conclusion:

The amendment to the Banking Offence and Punishment Act, 2064 marks a progressive step in Nepal's legal modernization. It introduces clarity, fairness, and efficiency in handling cheque dishonor offences. Nevertheless, future success will depend on effective enforcement, regulatory vigilance, and ongoing institutional support. As the financial sector evolves, legal reform must continue to align with best practices to foster transparency, accountability, and economic resilience in Nepal.

4. Challenges and Proposed Responses

Challenges	Suggested Solution
Increased investigative burden on police.	Capacity-building through training and recruitment.
Lack of awareness among stakeholders.	Awareness campaigns targeting BFIs and the public..
Higher compliance burden on banks.	Technical and financial support from regulators.