

The New Dubai Penal Order: A faster method of disposing of criminal proceedings

Taiba Alsafar - Partner - Litigation / Private Notary
t.alsafar@tamimi.com - Dubai International Financial Centre

Mohammad Al Hamadi - Senior Associate - Litigation / Private Notary
m.alhamadi@tamimi.com - Dubai International Financial Centre

Dubai Law 1 of 2017 has introduced a new mechanism for disposing of criminal complaints. The law seeks to provide efficiency and lessen the workload across the judicial authorities. Prior to this new initiative, criminal complaints were investigated by the public prosecutor and referred to the criminal court for trial and sentencing. The new penal order permits a prosecutor, within the limits set out in the law, to find the defendant guilty of certain misdemeanours and issue a penalty for the crime committed without the matter being referred to court.

A penal order can be issued by a public prosecutor for crimes classified as misdemeanours, in other words those punishable by a fine and/or a term of imprisonment not exceeding three years. The penal order must be restricted to the payment of a fine. The fine must not exceed half the maximum amount of a fine permitted under the UAE Penal Code for the relevant crime and additional punitive measures as outlined in Articles 82 – 85 of the UAE Penal Code such as confiscation of assets.

The effect of the issuance of a penal order is to terminate the criminal case without referring the prosecution to the competent court under the normal procedures unless the accused raises an objection to the penal order. Any objection must be made within seven days of the penal order being issued in the presence of the defendant or, if the defendant is absent, within seven days of notification of the penal order to the defendant by the public prosecutor.

Article 3 of Dubai Law 1 of 2017 sets out the reasons for the introduction of the penal order: to expedite the determination of criminal actions, reduce the burden on the criminal courts, streamline proceedings and the administration of justice for minor crimes, and reduce the time, effort and expense incurred by the parties involved in criminal prosecutions. Furthermore, the law serves the interests of individuals by enabling the public prosecutor to dispose of minor crimes without the need to maintain precautionary measures such as the confiscation of the accused's passport for long periods of time during the course of the investigation and the court process.

The law has provisions to protect the rights of the accused. Article 6 stipulates that once the public prosecutor receives the case file from the police, the accused should be notified of the referral of the case and should be informed of the charges filed against him and the evidence supporting the charge, so that he may prepare his defence. In cases where the accused fails to attend and submit his defence to the public prosecutor, the penal order will be issued in absentia against the accused. The law states that the Attorney-General of Dubai will determine and publish a full procedure for the notification of the prosecution to the defendant by the public prosecutor.

After the penal order is issued, it is reviewed by a member of the prosecution whose grade is not lower than a Chief Prosecutor in rank. He may amend or revoke the order within seven days of its issue. As a long stop, the Attorney-General of Dubai can amend or revoke a penal order within 30 days of its issuance. If the order is revoked, it is void, meaning it has no legal effect whatsoever. If it is amended or approved, the order is processed for execution subject to any objection as described above.

If there are multiple defendants and one or more of them objects to the penal order, the order is revoked in respect of the objecting parties only. The prosecutor is obliged to refer the case to the criminal court to issue its judgment as per the [normal criminal procedures](#) against the objecting parties.

The accused may withdraw any objection he has made to a penal order against him prior to the first hearing scheduled before the court. In that case, the penal order becomes final and binding. A penal order becomes final, and is immune to objection or appeal by any means, if the time limit for the objection elapses or if the accused pays the fine specified pursuant to the penal order. The law was issued on 30 January 2017. However, since the law stated that the list of crimes which could be disposed of by a penal order will be issued at a later date, the law was not implemented until December of 2017.

The Public Prosecution issued decision no. 88 of 2017 which contained a list of the crimes that may now be disposed of by a penal order and that list included the issuing of bad cheques for a value not exceeding AED 200,000, certain types of defamation, and attempted suicide. The Public Prosecution is now issuing penal orders and disposing of cases using this new mechanism.