

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE PENAL CODE (2013 REVISION)
TO PROVIDE FOR A NEW GRADUATED SCALE OF INCREASED
MAXIMUM TERMS OF IMPRISONMENT IN RELATION TO THE
DEFAULT OF PAYMENT OF COSTS, COMPENSATION, OR FINES
ORDERED BY A COURT IN CRIMINAL TRIALS; AND FOR
INCIDENTAL AND CONNECTED PURPOSES**

THE PENAL CODE (AMENDMENT) BILL, 2016

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to provide for a new graduated scale of increased terms of imprisonment in relation to default of payment of costs, compensation or fines ordered by a court in criminal trials.

Clause 1 of the Bill contains the short title of the legislation.

Clause 2 repeals and replaces section 30 of the Penal Code (2013 Revision) to provide for a new graduated scale of increased maximum terms of imprisonment in relation to default of payment of costs, compensation, or fines ordered by a court in criminal trials.

Clause 3 provides for savings and transitional provisions.

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Enacted by the Legislature of the Cayman Islands.

1. This Law may be cited as the Penal Code (Amendment) Law, 2016. Short title
 2. The Penal Code (2013 Revision) is amended by repealing section 30 and substituting the following section - Repeal and substitution of section 30 of the Penal Code (2013 Revision) - imprisonment in lieu of fine
- “Imprisonment in lieu of payment of costs, compensation, or fines, etc.
30. (1) In the absence of express provisions in any law relating thereto, the term of imprisonment ordered by a court in respect of the non-payment of any sum adjudged to be paid -
- (a) for costs under section 34;
 - (b) for compensation under section 33;
 - (c) in respect of the non-payment of a fine; or
 - (d) in respect of any sum adjudged to be paid under the provisions of any law,

shall be such term as in the opinion of the court will satisfy the justice of the case, but shall not exceed in any case, the maximum fixed by the following scale -

<i>Amount</i>	<i>Maximum term</i>
\$100 or less	1 month
More than \$100 but no more than \$500	2 months
More than \$500 but no more than \$1,000	4 months
More than \$1,000 but no more than \$15,000	6 months
More than \$15,000 but no more than \$650,000	5 years
More than \$650,000 but no more than \$1.3 million	7 years
More than \$1.3 million	14 years

(2) Subsection (1) shall be subject to the following -

- (a) the term of imprisonment imposed in respect of the non-payment of a fine shall not exceed -
 - (i) the term of imprisonment that could have been imposed at the time of conviction; or
 - (ii) in the case of an offence punishable with a fine only, six months; and
- (b) where the fine or other sum has been partly paid, the term of imprisonment imposed shall abate and be reduced by the ratio that the amount of the part payment bears to the amount of such fine or other sum.

(3) The imprisonment which is imposed in default of payment of a fine shall terminate whenever the fine is paid or levied by process of law.

(4) Subsections (2)(a)(i) and (ii) shall not apply in relation to any imprisonment ordered for default payment of a confiscation order made under section 15 of the Proceeds of Crime Law (2016 Revision).

3. (1) Where criminal proceedings are commenced before the new Law comes into force and those proceedings later result in a default order being made after the new Law comes into force, the provisions of the former Law shall apply to those proceedings in respect of the default order. Savings and transitional provisions

(2) In this section -

“former Law” means the principal Law in force immediately before the date of commencement of this Law.

“new Law” means the principal Law as amended by this Law.

Passed by the Legislative Assembly on the day of , 2016.

Speaker.

Clerk of the Legislative Assembly.