

[AS PASSED BY THE NATIONAL ASSEMBLY]

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BILL

to prohibit the business and practices of private, money-lending and advancing loans and transactions based on interest.

WHEREAS the injunctions of Islam as laid down in the Holy Qur'an and Sunnah explicitly and unequivocally prohibit charging interest on loans and have declared war against those who do not abandon interest;

AND WHEREAS the Constitution of the Islamic Republic of Pakistan obliges the State to take steps to enable the Muslims of Pakistan, individually and collectively, to order their lives in accordance with the fundamental principles and basic concepts of Islam and to provide facilities whereby they may be enabled to understand the meaning of life according to the Holy Quran and Sunnah;

AND WHEREAS it is expedient to make a comprehensive legislation on the subject for covering all the aspects of the mischief of private money-lending and matters akin thereto;

It is hereby enacted as follows:-

1. **Short title, extent and commencement.**- (1) This Act may be called the Islamabad Capital Territory Prohibition of Interest on Private Loans Act, 2021;

(2) It extends to the whole of the Islamabad Capital Territory.

(3) It shall come into force at once.

2. **Definition.**- In this Act, unless there is anything repugnant, in the subject or context,-

(a) "abetment" has the same meaning as assigned to it in section 107 of the Pakistan Penal Code, 1860 (Act XLV of 1860);

(b) "borrower or debtor" means a person to whom a loan is advanced;

(c) "Code" means the Code of Criminal Procedure, 1898 (Act No. V of 1898);

(d) "financial institution" includes the State Bank of Pakistan, a commercial or investment bank, a leasing company, a modaraba or other concerns, so defined in terms of section 2(a) the Financial Institutions (Recovery of Finances) Ordinance, 2001 (Ordinance No. XLVI of 2001);

(e) "Government" means the Federal Government of Pakistan;

(f) "interest" includes any amount, big or small, over the principal, in a contract of loan or debt, regardless of whether the loan is taken for

purpose of consumption or for some production activity, whether the same is charged or sought to be recovered specifically by way of interest or otherwise, or found so to be recoverable by a competent Court;

- (g) "Interest based transactions" include transactions, namely:-
- (i) where differences in prices are exchanged without any intention of exchange of goods by the parties involved; or
 - (ii) where sale is made on credit for higher price and repurchase of the same for lower price on cash basis by the original owner in a given transaction; or
 - (iii) where two prices are stipulated in the same deal that is to charge lower or discounted price for shorter period or given listed price for longer period by the buyer in a given transaction.
- (h) "loan or debt" means an advance whether of money or in kind, where the repayment is guaranteed on demand or after a specified period.
- (i) "molest" a person shall be deemed to molest another person if he:-
- (i) obstructs, or uses violence or criminal force to or criminally intimidates, such other person;
 - (ii) interferes with any property owned or used by him or deprives him of, or hinders him in the use of any such property; and
 - (iii) does any act calculated to intimidate the members of the family or such other person;
- (j) "money lender" means a person, other than the Federal or Provincial Government or a financial institution, who lends money on interest or deals in interest based transactions and includes any person appointed by him to be in charge of a branch office or branch offices or a liaison office or any other office by whatever name called, of his principal place of business and a pawn broker who carries on the business of taking goods and chattels in pawn or pledge for a loan, offering payday loans, small personal loans or credit chits.

Explanation:- Where a money lender is resident outside the province, the agent of such person resident in the Province, be deemed to be the money-lender in respect of that business for the purposes of this Act.

- (k) "prescribed" means prescribed by rules under this Act;
- (l) "principal amount" in relation to loan means the amount actually lent to the debtor; and

(m) "rules" means rules made under this Act.

3. Prohibition of private money lending.- (1) No money lender shall lend money or advance loan to any person for the purpose of receiving interest thereon, nor shall carry on an interest based transaction.

(2) Whoever contravenes the provisions of sub-section (1) shall be punished with imprisonment for a term which may extend to ten years but shall not be less than three years and shall also be liable to fine not exceeding one million rupees.

4. Punishment for abetment.- Whoever intentionally and willfully abets, engages, assists or aids the money lender in lending money or in recovery of interest or in interest based transaction in contravention of sub-section (1) of section 3 shall also be liable to the same punishment as provided in sub-section (2) of section 3 of this Act.

5. Punishment for molestation.- Whoever molests any borrower or debtor, whether, on his own behalf or on behalf of anybody else with intention to force such borrower or debtor to pay back any loan or debt or any part thereof or any interest thereupon, shall be punished with imprisonment of either description for a term which may extend to five years and shall also be liable to fine up to five hundred thousand rupees.

6. Complaint.- A justice of peace shall, within three days on receipt of any application or complaint with regard to the commission of an offence under this Act, order the local police to register a case against such person.

7. Liability to pay interest on debt to stand extinguished.- On the commencement of this Act, every obligation of any debtor or borrower to pay interest on debt or such part of interest shall stand extinguished.

8. Offences to be tried by Court.- No court inferior to the court of Judicial Magistrate of the first class shall try an offence under this Act.

9. Cognizance of offences.- Notwithstanding anything to the contrary contained in the Code or any other law for the time being in force an offence under this Act shall be cognizable, non-compoundable and non-bailable.

10. Adjustment of principal amount.- The trial court, if it is proved that the money lender committed an offence under this Act, shall order the interest already paid to the money lender is considered as payment toward the principal amount:

Provided that where the amount of interest paid by a borrower exceeds the principal amount, the court shall order the money lender to return such excess amount to the borrower.

11. Recovery of sums.- Where penalty imposed on money lender under this Act or the amount ordered to be returned, is not paid-

- (a) the court may order to recover the amount so payable by selling the assets belonging to such person; and