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PART-IV

PROVINCIAL ASSEMBLY OF SINDH
NOTIFICATION

KARACHI, THE 17TH JULY, 2023.

NO.PAS/LEGIS-B-01/2023-The Sindh Prohibition of Interest on Private Loans Bill, 2023 having been passed by the Provincial Assembly of Sindh on 09th June, 2023 and assented to by the Governor of Sindh on 10th July, 2023 is hereby published as an Act of the Legislature of Sindh.

THE SINDH PROHIBITION OF INTEREST ON PRIVATE LOANS ACT, 2023

SINDH ACT NO. XXIII OF 2023.

AN
ACT

to provide for the prohibition of the business and practices of private money-lending and advancing loans and transactions based on interest, in the Province of Sindh.

WHEREAS the injunctions of Islam as laid down in the Holy Quran and Sunnah have explicitly and unequivocally prohibited charging interest on loans and **Allah and Prophet Muhammad (SAW)(PBUH)** have declared war against those who do not abandon interest.

Preamble.

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 by prohibiting the business and practices of private money lending and advancing loans and transactions in the Province of Sindh and to provide for matters ancillary thereto;

It is hereby enacted as follows:-

1. (1) This Act may be called the Sindh Prohibition of Interest on Private Loans Act, 2023. **Short title, extent and commencement.**
- (2) It shall extend to the whole of the Province of Sindh.
- (3) It shall come into **force** at once.

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

- (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) of the Financial Institutions (Recovery of Finances) Ordinance, 2001 (Ordinance No. XLVI of 2001);
- (e) "Government" means the Government of Sindh;
- (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" includes transactions -
- (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 **or commodities or goods**, 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 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, shall 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 debt or;
- (m) "Province" means the Province of Sindh; and
- (n) "rules" means rules made under this Act.

3. (1) No money lender either individually or in group of persons shall lend money for **vehicles** or any other purpose or advance loan to any person for the purpose of receiving interest thereon, nor shall carry on an interest based transaction in the Province.

Prohibition of Private Money Lending.

(2) Whoever contravenes the provisions of sub-section (1), either directly or indirectly, shall be punished with imprisonment of either description 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. 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.

Punishment for abetment.

5. Whoever harasses any borrower or debtor, whether on his own or on behalf of anybody else with the 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.

Punishment for harassment.

6. **A complaint may be filed with the concerned Station House Officer, in case of non-response by the concerned police, a complaint shall be filed to the Justice of Peace who** within three days on receipt of any application or complaint with regards to the commission of an offence under this Act, order the local police to register a case against such person or group of persons.

Complaint.

7. On the commencement of this Act, every obligation of any debtor or borrower to pay interest on debt such part of interest shall stand extinguished. **Liability to pay interest on debt to stand extinguished.**
8. No Court inferior to that of Judicial Magistrate of the First Class shall try an offence under this Act. **Offences to be tried by Court.**
9. 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-bail able. **Cognizance of offences.**
10. The trial court, if it is proved that the money lender committed an offence under this Act, shall order that the interest already paid to the money lender is considered as payment towards the *principal amount*. **Adjustment of principal amount.**
11. Where penalty imposed on money lender under this Act or the amount ordered to be returned, is not paid- **Recovery of sums.**
- (a) The Court may order to recover the amount so payable by selling the assets belonging to such person; and
- (b) in case the amount cannot be recovered from such person in the manner provided in clause (a), the Court may prepare and sign a certificate specifying the amount due from such person and send it to the Collector of the District in which such person owns any property or resides or carries on business, and the Collector of the District on receipt of such certificate shall proceed to recover from the said person the amount specified in the certificate as if it is an arrear of land revenue.
12. Save as provided, any person aggrieved by any decision given, sentence passed or order made by the trial court under this Act, may within thirty days of such decision, sentence or order, prefer an appeal under the provisions contained in Chapter XXXI of the Code. **Appeal.**
13. (1) Where any lender, whether a money lender as defined in this Act or otherwise, refuses to accept the whole or any portion of the money or other property due in respect of his loan without payment of interest, the debtor may deposit the said money or property into the Court having jurisdiction to entertain a suit for recovery of such loan and apply to the Court record full or part satisfaction of the loan, as the case may be. **Power to deposit in Court money due on loan.**

(2) Where any such application is made, the Court shall, after due inquiry, pass orders recording full or part-satisfaction of the loan as the case may be.

(3) The procedure laid down in the Code of Civil Procedure 1908 (Act No. V of 1908), for the trial of suits shall, as far as may be, apply to applications under this section.

(4) An appeal shall lie from an order passed by a Court under sub-section (2) within thirty days excluding the time for obtaining a certified copy of the order as if such an order relates to the execution, discharge or satisfaction of a decree within the meaning of section 47 of the Code of Civil Procedure, 1908 (Act No. V of 1908).

14. The provisions of this Act shall have over-riding effect notwithstanding anything contained in any other law for the time being in force or in any instrument having effect by virtue of any such law. **Act to override other laws, etc.**

15. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or of any rules made there under. **Indemnity.**

16. Government may make rules **within ninety days** for carrying out the purposes of this Act. **Power to make rules.**

17. In the interpretation and application of the provisions of this Act, and in respect of matter ancillary thereto, the Court shall be guided by the injunctions of Islam as laid down in the Holy Quran and Sunnah. **Interpretation.**

BY ORDER OF THE SPEAKER
PROVINCIAL ASSEMBLY OF SINDH

G.M.UMAR FAROOQ
SECRETARY
PROVINCIAL ASSEMBLY OF SINDH