# THE GILGIT-BALTISTAN PROHIBITION OF INTEREST ON PRIVATE LOANS ACT, 2017

## (ACT NO. IV OF 2017)

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ACT

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

**Preamble.**—WHEREAS the injunctions of Islam as laid down in the Holy Quran and Sunnah have explicitly and unequivocally prohibited charging interest on loans and have declared was against those who do not abandon interest;

AND WHEREAS The Article 49 of Gilgit-Baltistan Empowerment and Self Governance Order, 2009 obliges the State to take steps to enable the Muslims Gilgit-Baltistan 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 been 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 a kin thereto;

It is here by enacted as follows:

1. **Short title, extent and commencement.**—(1) This Act may be called the Gilgit Baltistan Prohibition of Interest on Private Loans Act, No. IV of 2017.

(2) It extends to the whole of the Gilgit-Baltistan.

(3) It shall come into force at once.

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2. **Definitions.**—In this Act, unless there is an thing 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 1998);

(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 the Gilgit-Baltistan;

(f) "interest" includes any amount, big or small, over the principal amount, 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:

(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

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(iii) Does any act calculated to intimidate the members of the family or such the 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 I.***—Where a money lender is resident outside the Gilgit-Baltistan, the agent of such person resident in the Gilgit-Baltistan, 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 debtor;

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

(n) "Court" means the Justice of piece as defined in Section 22 Cr PC and The Court of Executive Magistrate First Class.

(o) "Public Prosecutor" means a Person appointed under Section 492 of Cr PC.

3. **Prohibition of Private Money Lending.**—(1) No money lender either individually or in group of persons shall lend money for any movable or immovable property 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 Gilgit-Baltistan.

(2) No money lender either individually or in group of persons shall lend money in order to take any service including labour, which is exploitative in nature and interest based tenancy.

(3) Whoever contravenes the provisions of sub-section (1) or sub-section (2) shall be punished with imprisonment of either description which may extend to seven years but shall not be less than three years and shall also be liable to fine up to five hundred thousand 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) or

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sub-section (2) of section 3 shall also be liable to the same punishment as provided in sub-section (3) 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 not exceeding 300000, three lac rupees.

6. **Complaint.**—(1) Any person may make a complaint to the Justice of Peace or Executive Magistrate First Class regarding any offence committed by any person or group of persons under the provisions of this Act.

(2) The Justice of Peace or the Executive Magistrate First Class shall, as early as possible but not later than seven working days, on receipt of any such complaint shall make an inquiry into the geniuses of the complaint either by himself or through any Magistrate subordinate to him and shall either reject the complaint or order the local police to register a case against such person or group of persons:

Provided that, in case of rejecting the complaint, the Justice of Peace or the Executive Magistrate First Class as the case may be shall, give his reasons in writing.

(3) Any Justice of Peace, or any Executive Magistrate, or an Officer incharge of a Police Station, within their respective jurisdictions, on their own or on receipt of any information other than a proper complaint may, subject to verification of such information, proceed against persons committing any offence under this Act:

Provided that, in case of an Executive Magistrate other than Executive Magistrate First Class, or an Officer incharge of a Police Station taking cognizance of any offence under this Act, with or without any arrest, shall forthwith bring the matter and produce the person or persons so arrested before the Justice of Peace or Magistrate First Class in whose Jurisdiction the offence is committed.

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 debtor such part of interest shall stand extinguished and no person shall be allowed to charge interest for the civilian.

8. **Offences to be tried by Court.**—No Court inferior to that of Executive 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-bail able.

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10. **Adjustment of principal amount.**—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:

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

(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. **Appeal.**—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.

13. **Power to deposit in Court money due on loan.**—(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 maybe.

(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 maybe.

(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

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if such an order relates to the execution, discharge or satisfaction of a decree, within the meaning of section 47of the Code of Civil Procedure, 1908 (Act No. V of 1908).

14. **Act to override other laws, etc.**—The provisions of this Act shall have 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.

15. **Indemnity.**—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.

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

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

FIDA MUHAMMAD NASHAD,
*Speaker*
*Gilgit-Baltistan Legislative Assembly.*

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MIR GHAZANFAR ALI KHAN,
*Governor*
*Gilgit-Baltistan .*

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