

[AS PASSED BY THE NATIONAL ASSEMBLY]

A

Bill

further to amend the Muslim Family Laws Ordinance, 1961

WHEREAS it is expedient further to amend the Muslim Family Laws Ordinance, 1961 (VIII of 1961) for the purpose hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.— (1) This Act shall be called the Muslim Family Laws (Amendment) Act, 2021.

(2) It shall come into force at once.

2. Amendment of section 4, Ordinance VIII of 1961.— In the Muslim Family Laws Ordinance, 1961 (VIII of 1961), section 4 shall be renumbered as sub-section (1) thereof and after sub-section (1), renumbered as aforesaid, the following new sub-sections shall be inserted namely:-

“(2) If a Muslim male from *Ahl-e-Teshih* dies, the share of a widow in the immovable property left behind by her deceased husband shall be as follows:

- (a) one-fourth share of the fixed price or value of the property, if there is no child left behind the deceased husband; and
- (b) one-eighth share, if there is child left behind.

(3) if there are two or more widows, the share, as mentioned in sub-section (2), shall be divided equally among them.

(4) The price or value of the property shall be the price or value existing at the time of payment and not the price or value which existed at the time of death of the husband:

Provided that if the legal heirs of the deceased do not give the widow her share in the above terms, she shall become entitled to her due share in the corpus of immovable property.

(5) A widow is entitled to her share in the corpus of movable property of her deceased husband provided that the provisions of sub-section (2) and (3) shall *mutatis mutandis* apply.

(6) *Fiqah-e-Jafri* recognizes right of a husband to get his share from the property left by his deceased wife, either movable or immovable, as follows:-

- (a) one-half share, if there is no child left behind; and
- (b) one-fourth share of the property, if there is child left behind.

(7) In case of dispute, the parties or any of the parties may have recourse to a court of competent jurisdiction or by approaching the *Mujtahid-e-Alam* from the panel maintained by the Council of Islamic Ideology. The decision of *Mujtahid-e-Alam* shall have a status of an award and the same shall be dealt with in accordance with the provisions of the Arbitration Act, 1940 (X of 1940).

Explanation.- The expression *Mujtahid-e-Alam (Faqih-e-Azam)* means a juris-consult, religious scholar or doctor of *Shia* school of thought well versed with *Shariah* having international repute and of such recognition. The Council of Islamic Ideology shall maintain a panel of *Mujtahid-e-Alam* having aforesaid qualifications.

(8) As enshrined in Article 227 of the Constitution of the Islamic Republic of Pakistan, the inheritance rights of *Ahle-e-Tashih* and matters connected therewith or ancillary thereto shall be decided according to their personal law interpreted by *Fiqah-e-Jafria (Shia school of thought)*."

STATEMENT OF OBJECTS AND REASONS

The Hon'able Lahore High Court, Rawalpindi Bench, Rawalpindi in CR. No. 795 of 2010 while hearing the matter of competence of an issueless widow from fiq-e-Jafriya to claim her share from the inheritance of his deceased husband held as under:

"It is expected that, the Government of Pakistan in Ministry of Law would take legislative measures to promulgate a codified law in this regard in order to protect the right of a childless widow from Ahl-e-Tashih in getting their due shares from the inheritance of their deceased husbands."

The Bill is designed to achieve the aforesaid object.

Minister-in-Charge

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Bill

further to amend the Muslim Family Laws Ordinance, 1961

WHEREAS it is expedient further to amend the Muslim Family Laws Ordinance, 1961 (VIII of 1961) for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. Short title and commencement.— (1) This Act shall be called the Muslim Family Laws (Amendment) Act, 2021.

(2) It shall come into force at once.

2. Amendment of section 7, Ordinance VIII of 1961.— In the Muslim Family Laws Ordinance, 1961 (VIII of 1961), in section 7,-

(i) in sub-section (1), for the full-stop, occurring at the end, a colon shall be substituted and thereafter the following proviso shall be inserted, namely:-

“Provided that where the parties belong to Fiqah-e-Jafria,-

- (a) the man may voluntarily and with his free will pronounce himself or through duly authorized attorney (Vakil) Talaq uttering in literal Arabic words (seegha) in the physical presence of at least two witnesses qualifying the requirements of clause (1) of Article 17 of the Qanun-e-Shahadat, 1984 (P.O. No. 1 of 1984);
- (b) the pronouncement of Talaq shall be ineffective if it is done jokingly or under anger, intoxication, insanity, duress or coercion of any kind and from any corner whatsoever; and
- (c) in case of dispute, with reference to paragraph (a) or (b) arising due to difference of opinion, the parties or any of the parties may have recourse to a court of competent jurisdiction or by approaching the “Mujtahid-e-Alam” and the decision of Mujtahid-e-Alam shall have a status of an Award and the same shall be dealt with in accordance with the provisions of the Arbitration Act, 1940 (X of 1940).

Explanation.- The expression *Mujtahid-e-Alam (Faqih-e-Azam)* means a juris-consult, religious scholar or doctor of Shia school of thought well versed with *Shariah* having international repute and of such recognition. The Council of Islamic Ideology shall maintain a panel of *Mujtahid-e-Alam* having aforesaid qualifications; and

- (ii) after sub-section (1), the following new sub-section (1A) shall be inserted, namely:-

“(1A) As enshrined in Article 227 of the Constitution of the Islamic Republic of Pakistan, the divorce and matters connected therewith or ancillary thereto shall be decided according to the personal law interpreted by *Fiqah-e-Jafria (Shia school of thought)*.”.

STATEMENT OF OBJECTS AND REASONS

Constitution of Pakistan, under Article 227 (1), provides the foundation for legislation regarding personal law of any Muslim sect by interpreting the *Quran and Sunnah* according to their teachings. Currently, The Muslim Family Laws Ordinance 1961 deals with the family matters including the *talaq* for the followers of all *fiqh* in the country. There has been demand from the followers of *Shia Fiqh* for the legislation on *talaq* as per their interpretation of *Quran and Sunnah*. Hence this Bill. The Bill was shared with the Council of Islamic Ideology. The Council has also endorsed it. This legislation will allow the followers of *Shia Fiqh* to settle their matters of *talaq* according to their interpretation.

The Bill is designed to achieve aforesaid object.

Minister-in-Charge