



THE NON-PERFORMING ASSETS AND REHABILITATION OF INDUSTRIAL UNDERTAKING (LEGAL PROCEEDINGS) ORDINANCE, 2000



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**THE NON-PERFORMING ASSETS AND REHABILITATION OF INDUSTRIAL
UNDERTAKINGS (LEGAL PROCEEDINGS) ORDINANCE, 2000**

ORDINANCE No. LVIII of 2000

[17th November, 2000]

An Ordinance to provide for expeditious legal remedies for matters relating to non-performing assets and recovery of the outstanding amounts payable to banks and financial institutions to make them attractive for privatization and to promote the revitalization of nation's economy and rehabilitation and restructuring of industrial undertakings

WHEREAS it is expedient in the public interest to provide for expeditious legal remedies in the matters relating to non-performing assets and recovery of the outstanding amounts payable to the banks and the financial institutions to make them attractive for privatization and to promote national economy by making provisions for restructuring, rehabilitation, management, sale, transfer and realization of non-performing assets and loans and for matters connected therewith or ancillary thereto;

AND WHEREAS the National Assembly and the Senate stand suspended in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999 and the Provisional Constitution Order No. 1 of 1999;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999, as well as the Provisional Constitution (Amendment) Order, 1999 (Order No. 9 of 1999), and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:-

1. Short Title, extent and commencement.—(1) This Ordinance may be called the Non-performing Assets and Rehabilitation of Industrial Undertakings (Legal Proceedings) Ordinance, 2000.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. Definitions.—(1) In this Ordinance, unless there is anything repugnant in the subject or context,-

(a) 'chief Executive' means the Chief Executive officer of the Corporation appointed under the CIRC Ordinance;

(b) 'CIRC Ordinance' means the Corporate and Industrial Restructuring Corporation Ordinance, 2000 ([L of 2000](#)).

(c) 'Corporation' means the Corporate Industrial Restructuring Corporation established under the CIRC Ordinance;

- (d) 'industrial undertaking' means any undertaking pertaining or relating to non-performing asset of a financial institution;
- (e) "financial asset" means any short, medium or long term interest and non-interest bearing loan, finance advance, lease, installment, term finance certificate, participation term certificate, musharaka, modaraba, profit and loss sharing agreement, redeemable capital, guarantee or contractual right to receive payment of money in respect of sums advanced or committed to an obligor by a financial institution including collateral pertaining thereto;
- ¹[(f) "financial institution" means any bank or other financial institution operating in Pakistan wherein the Federal Government hold any equity, as specified in the Schedule;]
- (g) "non-performing asset" means any financial asset-
- (a) which is held as an asset on the books of a financial institution;
 - (b) with respect to which the obligor has been in arrears on any payment obligation for a period more than three hundred and sixty-five days, including-
 - (i) collateral with respect to any financial asset; and
 - (ii) a whole or partial right or interest of a financial institution in any financial asset, that otherwise constitutes a non-performing asset including a financial asset with respect to which the financial institution has an ongoing funding obligation; and
 - (c) with respect to which the obligor's outstanding payment obligation to any financial institution exceeds thirty million rupees:
- Provided that the Federal Government may, by notification in the official Gazette, alter, reduce or increase the said amount as and when it deems fit;
- (h) "obligor" means any individual, proprietorship concern, company or other body corporate, trust, partnership or other entity that has, with respect to a non-performing asset, a contractual or legal obligation or duty to make payment, effect performance, provide security, or collateral with respect to any financial asset whether as principal, surety, guarantor or otherwise and whether such obligation is primary, secondary, matured or contingent; and
- (i) 'registered interest' means any right or interest in a non-performing asset duly registered under the Companies Ordinance ([XLVII of 1984](#)), or its predecessor statute or under any other law for the time being in force;
- (j) 'rules' means the rules made under this Ordinance; and
- (k) 'Schedule' means the Schedule annexed to the CIRC Ordinance.

¹Subs. by the Non-performing Assets and Rehabilitation of Industrial Undertakings (Legal Proceedings) (Amdt.) Act, 2004 (4 of 2004), s. 2 for clause (f).

(2) All other terms and expressions used but not defined in this Ordinance shall have the meanings assigned to them in the CIRC Ordinance.

3. Ordinance to override other laws.—The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.

4. Jurisdiction of High Court.—(1) Notwithstanding anything contained in any other law for the time being in force and subject to provisions of this Ordinance, the High Court of a Province within its territorial jurisdiction shall exercise exclusive civil and criminal jurisdiction:

(a) to adjudicate and decide all claims, legal proceedings, cases for recovery of non-performing asset, outstanding amount against obligor and matters related to, arising from or in connection with the CIRC Ordinance, and coming within the purview and operation of the provisions of CIRC Ordinance and whether pending on the commencement of this Ordinance or transferred to the High Court in pursuance of section 6 or which may be filed hereafter under this Ordinance; and

(b) to try offences punishable under this Ordinance or the CIRC Ordinance.

(2) It is hereby declared for removal of doubt that subject to the provisions of this Ordinance, and save as herein provided, a High Court and any other Court of Tribunal shall continue to exercise jurisdiction as before under the Code of Civil Procedure, 1908 (IV of 1908), the Banking Companies (Recovery of Loans, Advances, Credits and Finances) Act, 1997 (XV of 1997), the Companies Ordinance, 1984 (XLVII of 1984), the Code of Criminal Procedure, 1898, the Offences in Respect of Banks (Special Courts) Ordinance, 1984 (IX of 1984) and any other law for the time being in force, in all suits, cases and legal proceedings whether civil or criminal, applications and appeals to which the provisions of CIRC Ordinance and this Ordinance do not apply.

Explanation.—The 'High Court' within the meaning of subsection (2) shall also include the 'High Court' as referred to in section 2 of the Banking Companies (Recovery of Loans, Advances, Credits and Finance) Act 1997 (XV of 1997).

(3) For the purposes of this Ordinance there shall be one or more Benches in the High Court consisting of one or more Judges to be constituted by the Chief Justice to adjudicate the cases under this Ordinance.

(4) The Chief Justice of a High Court may for the purposes of this Ordinance *suo moto* or on an application of any party to the proceedings before it or for any other sufficient reason assign one or more cases covered under sub-sections (1) and (2) to any Bench of High Court constituted under sub-section (3) for trial where the subject matter of the claim or controversy is the same or the parties are substantially the same or where common question of law and fact are involved in relation to a non-performing assets or where there is substantially common evidence relating thereto if the ends of justice so require.

(5) The cases under this Ordinance shall ordinarily be heard at the principal seat of the concerned High Court:

Provided that the Chief Justice may for sufficient cause order a case to be heard at any permanent Bench of a High Court if in his opinion the same is necessary for convenience of the parties and ends of Justice.

5. Procedure and Power of High Court. Subject to the provisions of this Ordinance, the High Court under this Ordinance shall—

(i) in exercise of its civil jurisdiction,—

(a) follow the procedure, as nearly as possible, as provided in the Code of Civil Procedure, 1908 ([Act V of 1908](#)):

Provided that the High Court may, in its discretion, having regard to the facts of the case, follow the summary procedure, as nearly as possible, provided for in Order XXXVII in the First Schedule to the said Code; and

(b) have all the powers, including passing of decree and its execution, as vested in the Civil Court under the Code of Civil Procedure, 1908; ([Act V of 1908](#)) and

(ii) in exercise of its criminal jurisdiction follow the procedure and exercise the powers vested in it by or under the Code of Criminal Procedure, 1898 ([Act V of 1898](#)) or the Offences in Respect of Banks (Special Courts) Ordinance, 1984 ([Act IX of 1984](#)) or any other law for the time being in force.

(iii) in exercise of its banking jurisdiction, shall follow the procedure and have all the powers including passing of decree and its execution as vested in a Banking Court under the Banking Companies (Recovery of Loans, Advances, Credits and Finances) Act, 1997 (Act XV of 1997) subject to such limitations and defence as provided under the said law, and

(iv) in exercise of its company jurisdiction, follow the procedure and have all the powers vested in a High Court under the Companies Ordinance, 1984 ([Act XLVII of 1984](#)) subject to such defence as is available under the said law.

6. Transfer of Pending proceedings and institution of new cases.-(1) All such legal proceedings, suits, applications and cases pertaining to the obligor in relation to the non-performing assets and the collateral related thereto in which the Corporation has acquired all rights, title, interests, benefits and privileges of a financial under the CIRC Ordinance after approval duly granted by the Board of Directors constituted thereunder and after such cases are approved by the Board as coming within the purview and operation of the provisions of CIRC Ordinance and due compliance thereof, including (a) proceedings following the filing of an arbitration award, (b) applications under sub-section (2) of section 12 of Code of Civil Procedure, 1908 ([Act V of 1908](#)) or any suits, applications, including execution applications, legal proceedings or appeals thereunder, and (c) proceedings for the execution of a decree within the jurisdiction of any Court including those, pending in any Banking Court