

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

18 '3/6

A

BILL

to provide for prohibition of holding property in benami

WHEREAS it is expedient further to provide for prohibition of holding property in benami and restrict right to recover or transfer property held benami, and provide mechanism and procedure for confiscation of property held benami and for matters connected therewith or incidental thereto.

It is hereby enacted as follows:-

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement.- (1) This Act may be called the *Benami Transactions (Prohibition) Act, 2016*.

(2) It shall extend to the whole of Pakistan.

(3) It shall come into force on such date as the Federal Government, may, by notification in the official Gazette, appoint.

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

(1) “Adjudicating Authority” means the Adjudicating Authority appointed under section 6;

(2) “Administrator” means Assistant Commissioner Inland Revenue appointed under section 208 of the Income Tax Ordinance 2001;

(3) “Approving Authority” means Commissioner Inland Revenue as defined in clause (13) of section 2 of the Income Tax Ordinance 2001;

(4) “attachment” means the prohibition of transfer, conversion, disposition or movement of property, by an order issued under this Act;

(5) “authority” means an authority referred to in section 15;

(6) “banking company” means a banking company as defined in the Banking Companies Ordinance, 1962 (LVII of 1962) and includes anybody corporate which transacts the business of banking in Pakistan;

(7) “benami property” means any property which is the subject matter of benami transaction and also includes the proceeds from such property;

(8) “benami transaction” means,—

(A) a transaction or arrangement—

- (a) where a property is transferred to, or is held by, a person, and the consideration for such property has been provided, or paid by, another person; and
 - (b) the property is held for the immediate or future benefit, direct or indirect, of the person who has provided the consideration, except when the property is held by—
 - (i) a person standing in a fiduciary capacity for the benefit of another person towards whom he stands in such capacity and includes a trustee, executor, partner, director of a company, agent or legal adviser, and any other person as may be notified by the Federal Government for this purpose; or
 - (ii) any person being an individual in the name of his spouse or in the name of the any child in the name of his brother and sister or lineal ascendant or descendant and the individual appear as joint owner in any document of such individual and the consideration for such property has been provided or paid out of known resources of income of the individual; or
 - (B) a transaction or arrangement in respect of a property carried out or made in a fictitious name; or
 - (C) a transaction or arrangement in respect of a property where the owner of the property is not aware of, or, denies knowledge of, such ownership; or
 - (D) a transaction or arrangement in respect of a property where the person providing the consideration is not traceable or fictitious;
- (9) “benamidar” means a person or a fictitious person, as the case may be, in whose name the *benami* property is transferred or held and includes a person who lends his name;
- (10) “bench” means a bench of the adjudicating authority or the appellate tribunal, as the case, may be;
- (11) “beneficial owner” means a person, whether his identity is known or not, for whose benefit the *benami* property is held by a benamidar;
- (12) “Board” means the Federal Board of Revenue constituted under the Federal Board of Revenue Act 2007;
- (13) “director” shall have the same meaning as assigned to it in clause (13) of section 2 of the Companies Ordinance 1984;
- (14) “executor” shall have the same meaning as assigned to it in clause (c) of section 2 of the Succession Act 1925;
- (15) “fair market value” in relation to a property, means—
- (a) the price that the property would ordinarily fetch on sale in the open market on the date of the transaction; and

- (b) where the price referred to in sub-clause (a) is not ascertainable, such price as may be determined in accordance with such manner as may be prescribed;
- (16) "financial institution" shall have the same meaning as assigned to it in clause (15A) of section 2 of the Companies Ordinance 1984;
- (17) "firm" shall have the same meaning as assigned to it in section 4 of the Partnership Act 1932 and shall include an association of person as defined in section 80 of the Income Tax Ordinance 2001;
- (18) "High Court" means—
- (a) the High Court within the jurisdiction of which the aggrieved party ordinarily resides or carries on business or personally works for gain; and
- (b) where the Government is the aggrieved party, the High Court within the jurisdiction of which the respondent, or in a case where there are more than one respondent, any of the respondents, ordinarily resides or carries on business or personally works for gain;
- (19) "Initiating Officer" means a Deputy Commissioner Inland Revenue appointed under section 208 of the Income Tax Ordinance 2001;
- (20) "Member" means the chairperson or the member of the adjudicating authority or the Appellate Tribunal, as the case may be;
- (21) "notification" means a notification published in the official Gazette and the expression "notified" shall be construed accordingly;
- (22) "partner" shall have the same meaning as assigned to it in section 4 of the Partnership Act 1932, and shall include, -
- (a) Any person who, being a minor, has been admitted to the benefits of partnership; and
- (b) A member of Association of persons;
- (23) "partnership" shall have the same meaning as assigned to it in section 4 of the Partnership Act 1932, and shall include association of persons;
- (24) "person" shall include—
- (a) an individual;
- (b) a company;
- (c) a firm;
- (d) an association of persons or a body of individuals, whether incorporated or not;
- (e) every artificial juridical person, not falling under sub-clause (a) to (d).