

M-302 -
REGISTERED No. L.-7646

of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, MONDAY, JUNE 2, 1997

PART I

Acts, Ordinances, President's Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 2nd June, 1997

No. EB 9(19)/97-Legis. —The following Acts of Majlis-e-Shoora

(Parliament) received the assent of the President on the 31st May, 1997, are hereby published for general information :—

AcT. No. XV.0F 1997

An Act to repeal, and with certain modifications to consolidate and re-enact the Banking Companies (Recovery of Loans) Ordinance, 1979 and the Banking Tribunals Ordinance, 1984,

WHEREAS it is expedient to repeal, and with certain modifications to consolidate and re-enact the Banking Companies (Recovery of Loans) Ordinance, 1979 (XIX of 1979), and the Banking Tribunals Ordinance, 1984 (LVIII of 1984) ;

It is hereby, enacted as under :—

'1, Short title, extent and commencement a 1) This Act may be called the Banking Companies (Recovery of Loans, Advances, etc and. Finances) Act, 1997.

(2) It extends to the whole of Pakistan. ; \$

(3) It shall come into force at once. .

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

(a) "banking company" means—

(i). any company whether incorporated within or beyond Pakistan which transacts the business of banking or any associated or ancillary business in Pakistan and includes a government savings bank ;

(ii) a modaraba or modaraba management company, leasing company, investment bank, financing company, unit trust or mutual fund of any kind and credit or investment institution, corporation or company, whether industrial, agnoultiral, or development ; and

(iii) any company authorised by law to carry on any similar business specified in the Schedule to this Act ; and

(b) "Banking Court" means—

(i) in respect of a case in which the outstanding amount of claim based on a loan or finance does not exceed thirty million

Eee ee

e—eoaw—s\$S——w3e em”
rupees or the trial of offences under this Act, the Court established under section 4 ; and

(ii) in respect of any other case, the High Court ;

(c) “borrower” means a person who has obtained a loan under a system based on interest from a banking company and includes a surety or an indemnifier ; ‘

(d) “customer” means a person who has obtained finance under a system which is not based on interest from a banking company or is the real beneficiary of such finance, and includes a surety or an indemnifier ; ,

(e) “finance” includes an accommodation or facility under a system which is not based on interest but provided on the basis of ‘Pparticipation in profit and loss, mark-up or mark-down in price, hire-purchase, equity support, lease, rent-sharing, licensing, charge or fee of any kind, purchase and sale of any property, including commodities, patents, designs, trade marks and copy-rights, bills of exchange, promissory notes or other instruments with or without buy-back arrangement by a seller, participation term certificate, musharika or modaraba certificate, term finance certificate or any other mode other than an accommodation or ‘facility based on interest and also includes credit or charge cards, guarantees, indemnities, letters of credit and any other obligation, whether fund based or non-fund based, and any accommodation or facility the real beneficiary whereof is a person other than the person to whom or in whose name it was provided ; ;

(f) “loan” means a loan, advance and credit under a system based on interest and includes—

*

(i) an advance, cash credit, overdraft, packing credit, a bill discounted and purchased or any other financial accommodation provided by a banking company to a borrower ;

(ii) a guarantee, indemnity, letter of credit or any other financial engagement which a banking company may give, issue or undertake on behalf of a borrower ;

(iii) a benami loan, that is, a loan the real beneficiary or recipient FS whereof is a person other than the person in whose name the loan is advanced or granted ;

(iy) ' any amount due from a borrower to a banking company under a decree passed by a Civil Court or an award given by an arbitrator ; and

(v) any loan due from a borrower to a Banking Company which is the subject-matter of any pending suit, appeal or revision before any Court ; and

a ;

. (g) "rules" means rules made under this Act.

3. Act not to derogate from other laws.—The provisions of this Act shall be in addition to and, save as hereinafter expressly provided, not in derogation of any other law for the time being in force.

4. Establishment of Banking Court—(1) The Federal Government may, by notification in the official Gazette, establish as many Banking Courts as it considers necessary to exercise jurisdiction in respect of the cases covered by section 2 (b) (i) and appoint a Judge for each of such Courts and where it establishes more Banking Courts than one, it shall specify in the notification the territorial limits within which each of the Courts shall exercise jurisdiction

under this 'Act.

(2) Where more Banking Courts than one have been established to exercise jurisdiction in the same territorial limits, the Federal Government shall either prescribe a procedure for the distribution of, or authorize a Judge of any one such Court to distribute, cases among such Courts.

(3) Where more Banking Courts than one have been established in the same or different territorial limits, the High Court may, if it considers it expedient to do so in the interest of justice or for the convenience of the parties or of the witnesses, transfer any case from one Banking Court to another.

(4). A Judge of a Banking Court shall be appointed by the Federal Government after consultation with the Chief Justice of the High Court of the Province in which the Banking Court is established and no person shall be appointed a Judge of a Banking Court unless he has been a Judge of a High Court or is or has been a District Judge.

(5) A Banking Court shall hold its sittings at such places within its territorial jurisdiction as may be determined by the Federal Government.

(6) A Judge of a Banking Court, not being a District Judge, shall be appointed for a term of three years from the date on which he enters upon his office.

, (7). The salary, allowances and other terms and conditions of service of . @ person appointed as a Judge of a Banking Court shall be such as may be determined by the the Federal Government.

(8) Nothing contained in this section shall apply to a High Court in the exercise of its il tt under the Act.

5. High Court.—The Chief Justice of each High Court. shall, for securing the expeditious disposal of cases under this Act, nominate one or more Judges to exercise jurisdiction in respect of cases hereunder :

Provided that the Federal Government may request the Chief Justice to ensure the expeditious disposal of cases by assigning no other workglo such Judge.

6. _ Resignation and removal of Judges.—(1) A person, not being a District Judge, appointed as a Judge of a Banking Court under section 4 may, by notice in writing under his hand addressed to the Federal Government, resign from ae office. PS

(2) A person angoined's as a Judge of a Banking Court under section 4 may be removed from office in consultation with the Chief Justice of the High Court.

Sas Powers of Banking Courts.—(1) Subject to the provisions of this Act, a Banking Court shall—

' (a) in the exercise of its civil jurisdiction have all the powers vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908) ; .

(b) in thé exercise of its criminal jurisdiction, try offences punishable under this Act and shall, for this purpose have the same powers as are vested in a Court of Sessions under the Code of Criminal

' Procedure, 1898, (Act V of 1898) :

Provided that a Banking Court shall not take cognizance of any offence punishable under this Act except upon a complaint in waiting made by a person authorised in this behalf by the banking company in respect of which the offence was committed.

! (2) A Banking Court shall in all matters with respect to which the procedure has not been provided for in this Act, follow the procedure laid down in the Code of Civil Procedure, 1908 (Act V of 1908), 4nd the Code of Criminal Procedure 1898 (Act V of 1898).

Ee _____

(3) All proceedings before a Banking Court shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act-XLV of 1860), and a Banking Court shall be deemed to be a Court for purposes of the Code of Criminal Procedure, 1898 (Act V of 1898).

(4) Subject to sub- section (5), no court other than a Banking Court shall have or exercise any jurisdiction with respect to any matter to which the jurisdiction of a Banking Court extends under this Act, including a decision as to the existence or otherwise of a Joan or finance and the execution of a decree passed by a Banking: Court.

(5) Nothing in sub-section (4) shall be deemed to-affect—

(a) the right of a banking company to seek any remedy before any court or otherwise that may be available to it under the law by which the banking company may have been established ; or

{b) the powers of the banking company, or jurisdiction of any court such as.is referred to in clause (a) ; or

require the transfer to.a Banking Court of any proceedings pending before any banking company or such court immediately before the coming into force of this Act.

(6) All proceedings, including proceedings following the filing of an arbitration award and proceedings for the execution of a decree within the jurisdiction of a Banking Court, pending in any Special Court constituted under the Banking Companies (Recovery of Loans) Ordinance, 1979 (XIX of 1979), or. under the Banking Companies (Recovery of Loans, Advances, Credits or Finances) Ordinance, 1997 (XXV of 1997), or any Banking Tribunal under the Banking Tribunals Act, 1984 (LVIII of 1984), or any other Court including a High Court shall stand transferred to, or be deemed to be transferred to the Banking Court having jurisdiction. On transfer of proceedings under this sub-section, a Banking Court shall require the attendance of the parties through notices issued in accordance with the procedure for service of summons or notice laid down in sub-section (3) of section 9. :

(7) In.respect of proceedings transferred to a Banking Court under sub-section (6) the Banking Court shall proceed from the stage which the proceedings had reached immediately prior to the transfer and shall not be bound to recall and re-hear any witness and may act on the evidence already recorded or produced before the Court or Tribunal from which the proceedings were transferred.

8. Suit for recovery of written off loans, etc.—(1) Subject to sub-section (2), and notwithstanding anything contained in the Limitation Act, 1908 (Act No. IX of 1908), or any other law, a banking company may, within three years from the date of coming into force of this Act, file a suit for the recovery of any amount written off, released or adjusted under any agreement, contract, or consent, including a compromise or withdrawal of any suit or legal proceedings or adjustment of a decree between a banking company and a. borrower or customer on any day on or after the first day of January, 1990 and before the coming into force of this Act, if it can establish that the amount was written off, released or adjusted for political reasons or considerations other than bona fide business considerations.

(2) . No suit under sub-section (1) shall be filed unless the Board of Directors, if the banking company is incorporated within Pakistan, or the chief executive (by whatever name called or designated) of the banking company in Pakistan, if the Banking Company is incorporated beyond Pakistan, has approved the filing of the suit.

9. - Procedure of Banking Courts.—(1) Where a borrower or a customer or a banking company commits a default in fulfilling any obligation with regard to any loan or finance the banking company orsas the case may be, the borrower or customer, may institute a suit in the Banking Court by presenting a plaint duly supported by a statement of account which shall be verified on oath in the case of a banking company by the Branch Manager or such other officer as the Board of Directors of a banking company may authorize. in this behalf, Copies of the plaint shall also be filed along therewith in sufficient numbers so that there is one copy for each nar and one extra copy.

(2) The provisions of section 10 of the Code of Civil Procedure, 1908, shall have no application for and in relation to suits filed hereunder.

(3) Ona plaint being presented to the Banking Court a summons in Form No. 4 in Appendix 'B' to the Code of Civil Procedure (Act, V of 1898), or in such other form as may, from time to time, be prescribed by rules, shall be served on the defendant through the bailiff or process-server of the banking court, by registered post acknowledgement due, by courier and by publication in one English language and one Urdu language daily newspaper and service duly effected in any one of the aforesaid modes shall be deeméd to be valid service for purposes of this Act. In the case of service of the summons through the bailiff or ' process-server a copy of the plaint shall be attached therewith and in all other cases the defendant shall be entitled to obtain a copy of the plaint from the office

of the banking court without making a written application. The Court shall ensure that the publication of summons shall take place in newspapers with a wide circulation within its territorial limits.

(4) In any case in which the summons has been served on the defendant as provided for in sub-section (3) the defendant shall not be entitled to defend the suit unless he obtains leave from the Banking Court as hereinafter provided so to defend the same ; and, in default of his doing so, the allegations of fact in the plaint shall be deemed to be admitted and the Banking Court may pass a decree in favour of the plaintiff on the basis thereof or such other material as the Court may require in the interests of justice. ;

10. Leave to defend.—Subject to section 11, the Banking Court shall, upon an application made by a defendant within twenty-one days, give leave to defend the suit, if a serious and bona fide dispute is raised thereby :

Provided that where service has been validly effected only through publication in the newspapers the Banking Court may extend the time for filing an application for leave to defend if satisfied that the defendant did not have knowledge thereof. e

11. Interim decree—(1) If the Banking Court on a consideration of the contents of the plaint, the application of the defendant and the reply thereto, is of the opinion that the dispute between the parties does not extend to the whole of the claim, or that part of the claim is either undisputed, or is clearly due, or that the dispute is mainly limited to the rate of interest or mark-up, or the period for which interest or mark-up is payable, or if mark-up on mark-up has been charged, or as to a part of the principal amount, it shall, at the time of disposing off the application for leave to defend pass an interim decree in respect of that part of the claim which appears to be payable by the defendant to the plaintiff.

(2) The interim decree passed under sub-section (6) shall, for all purposes including appeal and execution, be deemed to be a decree passed under this Act, and any amount covered thereby or recoverable in execution thereof shall be adjusted at the time of the final decree :

Provided that it shall be open to the Banking Court to modify, in part or in whole, or reverse, the terms of the interim decree at the time of the final disposal of the suit and pass such order as it may deem just and proper.

12. Power to set aside decree.—In any case in which a decree is passed against a defendant under sub-section (4) of section 9 he may, within twenty-one days of the date of the decree, or where the summons was not duly served when

he has knowledge of the decree, apply to the Banking Court for an order to set it aside ; and if he satisfies the Banking Court that he was prevented by sufficient cause from making an application under section 9, or that the summons was not duly served, the Court shall make an order setting aside the decree against him upon such terms as to costs, payment into court or furnishing of security or otherwise as it thinks fit and allow him to make the application within ten days of the order.

13. Disposal of suit—(1) A suit in which leave to defend has been

granted to the defendant shall be disposed of within ninety days from the day on

. which leave was granted and in case proceedings continue beyond the said

period the defendant may be required to furnish security in such amount as the

Banking Court deems fit and on the failure of the defendant to furnish such secu-

rity, the Banking Court shall pass an interim or final decree in such amount as it may deem appropriate.

(2) The requirement of furnishing security under sub-section (1) shall be dispensed with if, in the opinion of the Banking Court, the delay is not attributable to the conduct of the defendant.

(3) Suits before a Banking Court shall come up for regular hearing as expeditiously as possible and except in extraordinary circumstances and for reasons to be recorded, a Banking Court shall not allow adjournments for more than seven days. .

14. Decree in suits relating to mortgages.—Where the claim filed by a Banking Company before the Banking Court is for the enforcement of a mortgage of immoveable property the Court will not be required to pass a preliminary decree as provided in Order XXXIV of the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908), but shall directly pass a final decree for fore-closure or sale, 2

15. Decree.—(1) The decree shall provide for interest or mark-up, as the case may be, on the pene debt from the date of institution of suit to payment— 2

(ay in the case of a loan, for interest at the contracted rate or at the rate of two per cent above the State 'Bank Repo rate whichever is higher ; and ;

~ (b) in the case of finance under a system not based on interest, for mark-up at the contracted rate or at the latest rate of the banking company for similar finance whichever is higher.

Explanation.—In clause (a) “State Bank Repo rate” means the Repo rate fixed by the State Bank of Pakistan, f ; :

(2) Notwithstanding anything contained in sub-section (1) if the court is satisfied that it is not feasible to make a full recovery of a loan or finance by reason of the fact that the security or assets are inadequate and with a view to facilitating recovery and in the best interest of the banking company, it may, on condition that the customer pays the principal amount and such part of the interest or mark-up as has not been remitted— i ‘

- (a) remit or release part of the interest or mark-up ;
- (b) allow repayment in installments.

Provided that —

(i) prior to exercising the powers conferred herein the court shall obtain

7 a detailed and reasoned opinion of the banking company in writing

in relation to the above setting out the relevant facts and circumstances ;

(ii) in no event shall a write off of interest or mark-up for a period in excess of one year, or the grant of installments in excess of two years, be allowed without the written consent of the banking company, which consent shall set out in detail the relevant facts and circumstances ; and

(iii) a copy of the order shall be forwarded to the State Bank.

16. Attachment before judgement and appointment of receivers.—

(1) Where the plaint under sub-section (1) of section 9 is for recovery of any amount through the sale of any Property pledged, mortgaged; hypothecated, assigned or otherwise charged as security for the loan or finance, or for or in relation to a finance lease, the Banking Court may, at any stage of the proceedings;

(a) restrain or injunct the sale, creation or transfer of an interest or charge or lease or disposal or disposition of such property by the borrower or customer ; or

(b) - attach such property ; or

' > i od .

1142 THE GAZETTE OF PAKISTAN, EXTRA, JUNE 2, 1997 [Part I

pi SS ae

(c) appoint one or more receivers of such property on such terms and conditions as it may deem fit. 3

(2) In-cases where a borrower or customer has obtained property or "financing through a finance lease, or has executed an agreement in connection with a mortgage, charge 'or pledge in terms whereof the banking company is authorised to recover or take over possession of the property without filing a suit it may, at its option— : ,

~

(a) directly recover the same if the property is movable ; or

(b) file a suit hereunder and the court may pass an order at any time, after the passing of an interim decree, either authorising the banking company to recover the property directly or with the assistance of the court : 7

Provided that in the event the banking company wrongly or unjustifiably exercises the direct power of recovery hereunder it shall be liable to. pay such compensation to the borrower or customer as may be adjudged by the Banking Court in summary proceedings to be concluded in thirty days on the application of the borrower or customer, 8

17. Banking documents.—(1) No bank shall obtain the signatures of a borrower or customer on banking documents which contain blanks in respect of important particulars including the date, the amount or the period of time in question. s : a

: (2) All banking agreements-executed by or on behalf of a bank and a borrower or customer shall be duly attested in the manner laid down in Article 17 of the Qanun-e-Shahadat Order, 1984 (P.O. 10 of 1984).

(3) Nothing contained in sub-sections (1) and' (2) shall invalidate any document executed prior to the coming into force of this Act,

(4) Notwithstanding anything contained in any other law, the Banking Court shall not refuse to accept in evidence any document creating, or purporting " to create, or indicating the creation of a mortgage, charge, pledge or hypothecation in relation to property merely because it is improperly stamped or is not registered and no such document shall be impoundable by the-Banking Court :

Provided that nothing contained in this sub-section shall operate to defeat the legal rights of a bona fide purchaser for value without notice of a document which ought to have been registered. ; .

18. Execution of decree.—(1) The Banking Court shall, on the written application of the decree-holder, forthwith order execution of the decree or order at any time seven days after the passing of the decree or order and, where the decree or order pertains to money, may direct that the amount covered by the decree or order, as the case may be, shall be recovered in accordance with the provisions of the Code of Civil Procedure, 1908, or any other law for the time being in force or in such other manner as the Banking Court may deem fit :

Provided that the Banking Court may, at the time of passing a final decree, pass an order of the nature contemplated by sub-section (1) of section 16 to the extent of the decretal amount. :

(2). Subject to sub-section (3), in cases of pledged or mortgaged property a banking company may sell the same with or without the intervention of the Banking Court either by public auction or by inviting sealed tenders and appropriate the proceeds thereof towards total or partial satisfaction of the decree.

(3)- Where the judgement-debtor or any person acting on his behalf does not voluntarily give possession of the mortgaged property sold, or sought to be sold, by the banking 'company under sub-section (2), the Banking Court on the application of the banking company, or the purchaser shall put the banking company or, as the case may be, the purchaser, in possession of the mortgaged property in any manner deemed fit by it. nd

(4) Where the mortgaged or pledged property has been sold by the banking company under sub-section (2), the banking company shall present a proper account of the proceeds to the Banking Court within thirty days from the date of the appropriation of the proceeds. ,

(5) Where a banking company wishes to sell a property by inviting sealed tenders, it shall invite offers through advertisements in one English and one Urdu newspaper which are circulated widely in the city in which the sale is to take place giving not less than thirty days time for submitting offers. The sealed tenders shall be opened in the presence of the tenderers or their representatives or such of them as attend :

: Provided that before concluding the sale the judgement debtor shall be given an opportunity to purchase the property at a matching price to be paid in cash within a period of thirty days.

(6) Notwithstanding anything contained in the Code of Civil Procedure

1908 (Act V of 1908), or any other law for the time being in force—

«

THE GAZETTE OF PAKISTAN, EXTRA, JUNE 2, 1997 [Part I]

ooo eee Oe eS ET ee
 eee ————— eE ————— eee ————— E

(a)

(b)

(c)

(a)

(b)

the investigation of claims and objections in respect of attachment or sale of any property, whether mortgaged, pledged or not, shall be completed within thirty days of filing such claims or objections ;

if the claims or objections are found by the Banking Court to be mala fide, or filed merely to delay or postpone the sale of the property, it may impose a penalty at a rate of upto twenty per cent of the sale price of the property for the period of the delay ; and

the Banking Court may, in its discretion, proceed with the sale of the mortgaged or pledged property if, in its opinion, the interests of justice so require :

Provided that the banking company gives a written undertaking that in the event the objections are found to be valid, or are sustained, it shall in addition to compensating the aggrieved party by the payment of such amount as may be adjudged by the Banking Court also pay a penalty or fine, upto twenty per cent of the sale Proceeds and such amounts shall be recoverable from the banking company: as decrees passed hereunder.

Provisions relating to certain offences.—(1) Whoever—

dishonestly commits a breach of the terms of a letter of hypothecation or trust receipt or such other instrument or document executed by him whereby the possession of the property offered as security for the loan or finance is not with the banking company but is retained by, or entrusted to him, for the purpose of effecting sale and depositing the same with the banking company ; or

subsequent to the creation of a mortgage in favour of a banking company, dishonestly parts with the possession of the mortgaged property whether by creation of a lease or otherwise contrary to the "terms thereof, without the written permission of the Banking Company, , :

shall, without prejudice to any other action which may be taken against him under

this Act or

any other law for the time being in force, be punishable with impre-

sonment of either description for a term which may extend to one year and shall also be liable to fine, and shall be ordered by the Banking Court trying the offence to deliver up or refund, within a time to be fixed by the Banking Court, the pro-
perty or the value of the property so dealt with. a

e

Explanation.—Dishonesty may be presumed where a borrower or a customer has not deposited the sale proceeds of the property with the banking company in violation of the terms of the agreement between the banking company and the borrower or customer.

(2) Whoever knowingly makes a statement which is false in material respects in an application for loan or finance and obtains a loan or finance on the basis thereof, or applies the amount of the loan or finance towards a purpose other than that for which the loan or finance was obtained by him, or furnishes a false statement of stocks in violation of the terms of the agreement with the banking company, shall be guilty of an offence punishable with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

(3) Whoever resists or obstructs, either by himself or on behalf of the judgement debtor, through the use of force, the execution of a decree, shall be punishable with imprisonment which may extend to one year, or with fine, or with both, ~

(4) Whoever dishonestly issues a cheque which is dishonoured shall be punishable with imprisonment which may extend to one year, or with fine, or with both, unless he can establish, for which the burden of proof shall rest on him, that he had made arrangements with his bank to ensure that the cheque would be * honoured and that the bank was at fault in not honouring the cheque.

(5) Where the person guilty of an offence under this Act is a company or other body corporate, the chief executive by whatever name called, and any director or officer involved shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. i

(6) All offences under this Act shall be bailable, non-cognizable and * compoundable. 3 ;

20. Application of fines.—A Banking Court imposing any fine under this Act may direct that the whole or a part thereof shall be applied in or towards—

(a) payment of cost of all or any of the proceedings under this Act ; and

* (b) payment to an aggrieved party of compensation for any loss caused by the offence.

21, Appeal.—1) Subject to sub-section (2), any person aggrieved by a decree, or an order refusing to set aside a decree, or an order permitting or

preventing the sale of property, or a sentence passed by a Banking Court established under section 4 may, within thirty days of such order, decree or sentence, prefer an appeal to the High Court :

Provided that the admission of the appeal shall not per se operate as a stay, and nor shall any stay be granted therein unless the appellant deposits in cash with the High Court an amount equivalent to the amount due, or, at the discretion of the High Court, furnishes security equal in value to such amount ; and in the event of a stay being granted for a part of the defctual amount only the requirement for a deposit in cash or furnishing of security shall stand reduced accordingly :

Provided further that where the claim of the decree-holder is based on the default of the defendant in payment of agreed installments, the deposit shall be

made or, as the case may be, the security furnished to the extent of the amount of installments in default.

(2) The High Court shall, at the stage of admitting an appeal, or at any time thereafter either suo motu, or on the application of the decree holder, decide by means of a reasoned order whether the appeal is to be admitted in part or in whole depending on the facts and circumstances of th® case.

(3) An appeal under sub-section (1) shall be heard by a bench of not less than two Judges and, in case' the appeal is admitted, it shall be decided within ninety days from the date of admission.

(4) An appeal may be preferred under this section from a decree passed ex-parte. ‘

(5) No appeal, review or revision shall lie against any interlocutory order of the Banking Court other than: an order passed under sub-section (6) of section 18.

22. Application of the Limitation Act, 1908, Act IX of 1908.—(1)
Subject to sub-section (2), the provisions of the Limitation Act, 1908 (Act IX of 1908), shall not apply. to any suit, application or other proceedings filed or transferred: to a Banking Court under this Act.

(2) The provisions of the Limitation Act, 1908 (Act IX of 1908), shall apply to all cases instituted or filed ina Banking Court after the coming into force of this Act : ; i

Ee _____

Provided that in relation to past transactions a fresh cause of action will be deemed to arise, for purposes of limitation only, on the date on which this Act comes into force.

23. Power to make rules.—The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act. i

24. Removal of difficulties —If any difficulty arises in giving effect to any of the provisions of this Act, the Federal Government may, by notification in the official Gazette, make such provisions as it thinks fit for removing that difficulty.

25. 'Transfer of pending criminal proceedings.—All criminal proceedings pending before the Special Courts .constituted: under Banking Companies (Recovery of Loans, Advances, Credits and Finances) Ordinance, 1997, immediately before the establishment of the Banking Courts under section 4 shall stand transferred to the Banking Courts having jurisdiction :

Provided that a Banking Court shall not, on conviction in any such case, pass a sentence exceeding the maximum sentence prescribed by the aforesaid laws. ,

26 Immunity.—No suit, prosecution or other legal proceedings lie against the banking Mohtasib or members of his staff or any person authorised by him for anything which is' in good faith done or intended to be done under this Act. m4 e #

27. Finality of order—Subject to the provisions of appeal, no court or other authority shall revise or review or call, or permit to be called, in question any proceeding, order, judgement, decree or sentence of a Banking Court or the Banking Mohtasib'6r the legality or propriety of anything done or intended to be done by the Banking Court or the Banking Mohtasib under this Act.

28. Repeal—(1) The Banking Companies (Recovery of Loans) Ordinance, 1979 (XIX of 1979), the Banking Tribunals Ordinance, 1984 (LVIIT of 1984), and the Banking Companies (Recovery of Loans, Advances, Credits and Finances) Ordinance, 1997 (XXV of 1997), are hereby repealed.

(2) Notwithstanding anything contained in the General Clauses Act, 1897 (X of 1897), or in any appointment order or contract, no person shall have

SS

any vested right in respect of his appointment or any term and condition of his appointment made under any of the Ordinances repealed under sub-section (1).

THE SCHEDULE

[See section 2 (a) (iti)]

a