

[AS PASSED BY THE NATIONAL ASSEMBLY]

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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)*.”.

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#### **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**