151892 - Stipulating a fixed penalty in the event of a delay in repaying a loan

the question

My question is about bank interest(sood).
I live in england as a foreign student. here in england a bank is offering an account which allows you to overdraw up to £2500.which is free for first 4 months from the date of opening the account. if you withdraw the money after 4 months or you withdrew the money before that period and you didnt pay back the money you would be charged £1 daily no matter you withdrew £1 or £2500.there are no other charges. Does this £1 daily charge come in interest or it is legitimate as interest is always in percentage of the amount you use...
some of my friends say that it doesn't come in interest or sood as it is not the percentage of the amount you use rather it is bank services charges which is fixed whether you withdraw £1 or £2500..
if you want to know further about this bank account you can visit the website of bank. bank name is halifex and account name is switch accnount.
I am looking for your reply as I desperately need this money if it is legitimate .

Detailed answer

Praise be to Allah.

It is not permissible to stipulate any benefit when giving a loan, or to stipulate a penalty in the event of a delay in repayment, whether the penalty is fixed or is connected to the amount of money borrowed. And it is not permissible to take a loan if a penalty is stipulated, even if the borrower is determined to pay back on time, because entering into this contract is committing to riba and approving of it, in addition to the fact that a delay may occur, thus forcing one to pay the penalty.

It says in a statement of the Islamic Fiqh Council of the Muslim World League in Makkah, issued in

their eleventh conference, statement no. 8: If the lender stipulates that the borrower has to pay a sum of money as a financial penalty of a fixed amount or a specific percentage, if there is any delay in repayment beyond the time agreed upon by both, then this is an invalid condition, and he is not required to fulfil it; indeed it is not permissible, regardless of whether the one who stipulated it was the bank or anyone else, because this in and of itself is the riba of the Jaahiliyyah that the Qur'aan forbids. End quote.

It says in a statement of the Islamic Fiqh Council about credit cards: It is not permissible to issue a credit card that is not covered or to deal with it, if it is stipulated that interest (riba) is to be paid, even if the one who requests the card is determined to pay it off within the free period.

For the full text of the statement, please see the answer to question no. 97530.

Shaykh Ibn 'Uthaymeen (may Allah have mercy on him) was asked: The banks give their customers credit cards called Visa, whereby they can withdraw cash from the bank even if there no money in the account at that moment, on the basis that it will be paid back to the bank within a specific time period; if it is not repaid before the end of that period, then the bank will demand more than the customer withdrew. Please note that the customer pays an annual fee to the bank in return for using that credit card. I hope that you can explain the ruling on this credit card.

He replied:

This transaction is haraam, because the one who signs up for it is committing to pay riba if he does not pay it off within the specified time. This commitment is invalid, even if the person believes or thinks it most likely that he will pay it off before the period ends, because things may change and he may not be able to pay it off. This is something in the future, and no one knows what will happen to him in the future. Such transactions are haraam. And Allah knows best.

End quote from Majallat al-Da'wah, issue no. 1754, p. 37

If a person borrows thousands of pounds from someone else, and he is obliged to pay one pound if he delays repayment, or that is stipulated at the time of making the contract, it is riba and is

haraam.

Ibn Qudaamah (may Allah have mercy on him) said: Every loan in which it is stipulated that more must be paid back is haraam, and there is no difference of opinion concerning that.

Ibn al-Mundhir said: They are unanimously agreed that if the lender stipulates that the borrower must pay back more or give a gift, and he gives the loan on that basis, the extra amount is riba. It was narrated from Ubayy ibn Ka'b, Ibn 'Abbaas and Ibn Mas'ood that they forbade loans that bring benefits.

End quote from al-Mughni (6/436)

Ibn 'Abd al-Barr (may Allah have mercy on him) said: I do not know of any difference of opinion concerning the view that if it is stipulated that something extra be paid back with a loan, this is riba and is haraam, and it is not permissible to consume it.

End quote from al-Istidhkaar, 6/513

And Allah knows best.