

THE ESTABLISHMENT OF CIVIL MOBILE COURTS ACT, 2015.

(KHYBER PAKHTUNKHWA ACT NO. XXV OF 2015)

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(KHYBER PAKHTUNKHWA ACT NO. XXV OF 2015)

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**AN
ACT**

*to provide for the establishment of
Civil Mobile Courts in the Province
of the Khyber Pakhtunkhwa*

WHEREAS it is expedient to provide for the establishment of Civil Mobile Courts in the Province of the Khyber Pakhtunkhwa and matters incidental thereto or connected therewith for providing inexpensive and expeditious disposal of certain claims and disputes;

It is hereby enacted as follows:

1. Short title, extent and commencement.---(1) This Act may be called the Establishment of Civil Mobile Courts Act, 2015.

(2) It shall extend to such areas of the Province of the Khyber Pakhtunkhwa as Government, in consultation with the Chief Justice of the High Court, notifies from time to time.

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

2. Definition.---(1) In this Act, unless there is anything repugnant in the subject or context,-

- (a) “Court” means Civil Mobile Court established under section 3 of this Act;
- (b) “District Judge” means the District Judge as defined in the West Pakistan Civil Courts Ordinance, 1962 (Ord. No. II of 1962);
- (c) “Government” means the Government of the Khyber Pakhtunkhwa;
- (d) “High Court” means the Peshawar High Court;
- (e) “prescribed” means prescribed by rules;

- (f) “rules” mean rules made under this Act; and
- (g) “Schedule” means Schedule appended to this Act.

(2) Any expression not specifically mentioned or defined in this Act, shall have the same meaning as defined in the Code of Civil Procedure, 1908 (Act V of 1908), and shall apply mutatis mutandis.

3. Establishment of Court.---(1) Government, in consultation with the High Court, may establish one or more Courts in each district or at such other place or places as it may deem necessary. Such Courts shall hold sittings on rotation basis as directed by District Judge at Tehsil Council or Town Council or Neighbourhood Council or Village Council or Police Station or any other place specified by the High Court.

(2) The Court shall be presided over by a Civil Judge.

(3) The local limits of jurisdiction of the Court shall be such as the High Court may, by notification in the official Gazette, determine and define from time to time.

4. Jurisdiction.---The Court shall have concurrent jurisdiction to try all suits and claims arising therefrom, specified in the Schedule, the subject matter of which does not exceed two hundred thousand rupees in value for the purposes of jurisdiction:

Provided that the High Court may, by notification in the official Gazette, vary such value from time to time:

Provided further that if Government is a party to any such litigation, the Court may hear the case at District Headquarters.

5. Proceeding in trials.---Proceedings under this Act shall be conducted in the manner prescribed and in the absence of any rules the principles and provisions of the Code of Civil Procedure, 1908 (Act V of 1908) shall apply so far as not inconsistent with this Act.

6. Execution of decree.---A decree and order passed by the Court shall be executed in such a manner as may be prescribed. Upon pronouncement of judgment and decree by the Court, the suit shall automatically stand converted into execution proceedings without the need to file a separate application and no fresh notice need to be issued to the judgment-debtor in this regard.

7. Alternate Dispute Resolution.---(1) The Court may resort to any mode of Alternate Dispute Resolution as deem fit in the circumstances of the case regarding the cases as provided in the Schedule, after obtaining consent from the parties.

(2) The Court shall be assisted by one or two Advocates and elders of locality having professional skills of resolution of disputes through Alternate Disputes Resolution. The panel of such persons shall be maintained and updated from time to time by the Court. For resolution of each dispute or claim through Alternate Dispute Resolution, it shall be discretion of the Court to select any person from such panel. The fee of such person shall be, as may be prescribed.

(3) Subject to law, the Court and the persons selected from the panel shall exert maximum efforts to get the case decided through Alternate Dispute Resolution, which would entitle them for the incentives as may be prescribed.

8. Power of the Court.---(1) Subject to the provisions of this Act, the Court shall for the purpose of any case under this Act, have the powers of a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the matters, namely,-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) compelling production or discovery of documents;
- (c) local inspection; and
- (d) issuing commission for examination of witnesses or documents.

(2) The Court may on its own information received in any manner, shall be competent to initiate proceedings and shall decide the same in the manner setout by this Act or as may be prescribed.

9. Inherent powers of the Court.---Nothing in this Act shall be deemed to limit or otherwise affect the inherent powers of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court in respect of resolving disputes mentioned in the Schedule.

10. Appeal in suits.---(1) An appeal shall lie to the Court of the District Judge of the district concerned, within sixty (60) days of the passing of decree or final order by the Court.

Such District Judge may entrust appeal to any other appellate Court of competent jurisdiction.

(2) No appeal shall lie against the decree or order of the Court passed with consent of the parties.

11. Revision and review in suits.---(1) Subject to law revision or review shall be filed within thirty (30) days of the passing of the decree or final order by the Court.

(2) No revision or review shall lie against the decree or order of the Court passed with consent of the parties.

12. Amendment in the Schedule.---Government may, by notification in the official Gazette, amend the Schedule, from time to time, in the interest of justice.

13. Assistance by Executive.---Subject to the Constitution of Pakistan, all officers in the district including police shall be bound to assist the Court at the place of sitting, whenever their assistance is so required.

14. Power to make rules.---Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

15. Repeal and savings.---(1) On coming into force of this Act, the Small Claims and Minor Offences Courts Ordinance, 2002 (Ord. No. XXVI of 2002), to the extent of small claims, shall stand repealed.

(2) Notwithstanding the repeal of the said Ordinance under sub-section (1), everything done, action taken, obligation, liability or penalty incurred, inquiry or proceedings commenced, shall continue and be deemed to have been validly done, taken, incurred or commenced under this Act.

(3) On commencement of this Act, all cases pending with the courts established under the repealed Ordinance, shall stand transferred to the Courts, established under this Act.

SCHEDULE

(see section 4)

1. Suit for recovery of money due on contract in writing, receipt or any other documents.
2. Suit for the specific performance or rescission of a contract in writing.
3. Suit for recovery of movable property or value thereof.
4. Suit for separate possession of joint immovable property through partition or otherwise other than Agricultural Land.
5. Suit for compensation.
6. Suit for redemption of mortgage property.
7. Suit for enforcement of easement rights.
8. Suit for rendition of accounts of joint property.
9. Suit to restrain waste and remove nuisance.
10. Mense profits of property.
11. Suit for compensation for wrongful taking or damaging movable or immovable property.
12. Suit for damages by cattle trespass.
13. Any other relief not failing under the Schedule but agreed to by the parties to be settled under this Act.