

THE WEST PAKISTAN CIVIL COURTS ORDINANCE, 1962.

(W. P. ORD. II OF 1962).

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THE WEST PAKISTAN CIVIL COURTS ORDINANCE, 1962.

(W. P. Ord. II of 1962)

[8th January, 1962].

**AN
ORDINANCE**

to amend and consolidate the law relating to Civil Courts in the Province of West Pakistan.

Preamble.

WHEREAS it is expedient to amend and consolidate the law relating to Civil Courts in the Province of West Pakistan;

NOW, THEREFORE, in pursuance of the Presidential Proclamation of the seventh day of October, 1958, and having received the previous instructions of the President, the Governor of the West Pakistan is pleased, in exercise of all powers enabling him in that behalf, to make and promulgate the following Ordinance: —

**CHAPTER—I
PRELIMINARY.**

Short title,
extent and
commencement

1. (1) This Ordinance may be called the West Pakistan Civil Courts Ordinance, 1962.

(2) It extends to the whole of the ¹[Province of Khyber Pakhtunkhwa] except the Tribal Areas.

²[(3) It shall come into force at once].

Definitions.

2. In this Ordinance, unless the context otherwise requires, the following expressions shall have the meanings hereby respectively assigned to them, that is to say—

(a) "Government" means the Government of the ³[Khyber Pakhtunkhwa];

(b) "High Court" means the ⁴[Peshawar High Court]

(c) "Land " means land which is not occupied as the site of any building in a town or village and is occupied or has been let for agricultural purposes or for purposes sub-servient to agriculture or for pasture, and includes the sites of buildings and other structures on such lands;

(d) "land suit" means a suit relating to land or to any right or interest in land;

(e) "prescribed" means prescribed by rules made under this Ordinance;

⁵[(f) Deleted]

¹ In sub-section (2) of section 1, for the words and hyphen "North- West Frontier Province", the words "Province of Khyber Pakhtunkhwa" are substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

² Sub-section (3) Subs, by Khyber Pakhtunkhwa Adaptation of laws Order, 1975.

³ In clause (a) of section 2, the words and hyphen "North- West Frontier Province", the words "Province of Khyber Pakhtunkhwa" are substituted vide Khyber Pakhtunkhwa Act No. IV of 2011.

⁴ Sub-section (3) Subs, by Khyber Pakhtunkhwa Adaptation of laws Order, 1975.

⁵ Clause (f) of section 2 is deleted vide Khyber Pakhtunkhwa Act No. X of 2019.

(g) "unclassified suit" means a suit which is neither a small cause nor a land suit; and

(h) "value" used with reference to a suit means the amount or value of the subject matter of the suit.

CHAPTER—II CIVIL COURTS

3. Besides ¹[Deleted] the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts, namely:— Classes of Courts.

(a) the Court of the District Judge;

(b) the Court of the Additional District Judge; and

(c) the Court of the Civil Judge.

4. For the purposes of this Ordinance, Government may, by notification, divide the Province into civil districts, fix the limits of such districts and determine the headquarters of each such district. Civil Districts.

5. Government shall, in consultation with the High Court, appoint as many persons as it thinks necessary to be District Judges and post a District Judge to each district; District Judges.

Provided that the same person may be appointed to be District Judge of two or more districts.

6. (1) Government may, in consultation with the High Court, appoint as many Additional District Judges as may be necessary. Additional District Judges.

(2) An Additional District Judge shall discharge such functions of a District as the District Judge may assign to him, and in the discharge of those functions he shall exercise the same powers as the District Judge.

7. Except as otherwise provided by any enactment for the time being in force, the Court of the District Judge shall have jurisdiction in original civil suits without limit as regards the value. Original jurisdiction of District Judges in suits.

8. Government may, in consultation with the High Court— Civil Judges.

(a) fix the number of Civil Judges to be appointed

(b) make rules prescribing qualifications for recruitments of persons as Civil Judges ;and

(c) appoint as many Civil Judges as may be deemed necessary.

9. The jurisdiction to be exercised in original civil suits as regards the value by any person appointed to be a Civil Judge shall be determined by the High Court either by including him in a class or otherwise as it thinks fit. Pecuniary limits of jurisdiction of Civil Judges.

10. (1) The local limits of the jurisdiction of a Civil Judge shall be such as the High Court may define. Local limit of jurisdiction.

¹ In section 3, the words comma and figure “the Court of small causes established under the Provincial Small Causes Courts Act, 1887 and” are deleted vide Khyber Pakhtunkhwa Act No. X of 2019.

(2) When the High Court posts a Civil Judge to a district, the local limits of the district shall be in the absence of any direction to the contrary, be deemed to be the local limits of his jurisdiction.

¹[11. Deleted]

Exercise by Civil Judges of jurisdiction of District Courts in certain proceeding.

12. (1) Notwithstanding anything contained in the Succession Act, 1925, the High Court may, by general or special order, authorise any Civil Judge to take cognizance of or any District Judge to transfer to a Civil Judge under his control, any proceedings or class of proceedings under the said Act.

(2) The District Judge may withdraw any such proceedings taken cognizance of by or transferred to a Civil Judge, and may either himself dispose of them or transfer them to a Court under his control competent to dispose of them:

Provided that nothing herein contained shall empower a District Judge to withdraw such proceedings as have been specifically transferred from his Court by the High Court.

(3) Proceedings taken cognizance of by or transferred to a Civil Judge as the case may be, under this section, shall be disposed of by him subject to the rules applicable to like proceedings when disposed of by the District Judge.

Places of sitting of Courts.

13. (1) The High Court may fix the place or places at which any Court under this Ordinance is to be held.

(2) The place or places so fixed may be beyond the local limits of the jurisdiction of the Court.

(3) Except as may be otherwise provided by any order under this section, a Court under this Ordinance may be held at any place within the local limits of its jurisdiction.

Control of Courts and Presiding Officers.

14. (1) All Civil Courts in the areas to which this Ordinance extends shall be subordinate to the High Court, and, subject to the general superintendence and control of the High Court, the District Judge shall have control over all Civil Courts within the local limits of his jurisdiction.

(2) The posting of Civil Judges shall be made by the High Court.

Power to distribute business.

15. Notwithstanding anything contained in the Code of Civil Procedure, 1908, every District Judge may by written order direct that any civil business cognizable by his Court and the Courts under his control shall be distributed among such Courts in such manner as he thinks fit:

Provided that no direction issued under this section shall empower any Court to exercise any powers or deal with any business beyond the limits of its jurisdiction.

¹ Section 11 is deleted vide Khyber Pakhtunkhwa Act No. X of 2019.

Delegation of powers by District judges.

16. A District Judge may with the previous sanction of the High Court, delegate, in respect of any specified portion of the district, to any Civil Judge in the district, his powers under sections 14 and 15 of this Ordinance and the powers of the District Court under section 24 of the Code of Civil Procedure, 1908, and such powers may be exercised by such Civil Judge subject to the general control of the District Judge.

CHAPTER—III

JURISDICTION IN CIVIL APPEALS.

Appeals from District Judges or Additional District Judges.

17. (1) Save as otherwise provided by any enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional District Judge exercising original jurisdiction shall lie to the High Court.

(2) An appeal shall not lie to the High Court from a decree or order of an Additional District Judge in any case in which, if the decree or order had been made by the District Judge, an appeal would not lie to that Court.

18. **Appeals from Civil Judges.**— (1) Save as aforesaid, an appeal from a decree or order of a Civil Judge shall lie—

- (a) to the High Court if the value of the original suit in which the decree or order was made exceeds ¹[ten million rupees]; and
- (b) to the District Judge in any other case.

²[(1A) Subject to the provisions of section 102 of the Code of Civil Procedure, 1908, no second appeal shall lie in any other suit when the amount or value of the subject-matter of the original suit does not exceed five hundred thousand rupees.]

(2) Where the function of receiving any appeal which lie to the District Judge under the last preceding sub-section has been assigned to an Additional District Judge, the appeal may be preferred to the Additional District Judge.

(3) The High Court may, by notification, direct that appeals lying to the District Judge from all or any of the decrees or Orders passed in any original suit by any Civil Judge shall be referred to such other Civil Judge as may be mentioned in the notification, and the appeals shall thereupon be preferred accordingly, and the court of such Civil Judge shall be deemed to be a District Court for the purposes of all appeals so preferred.

CHAPTER—IV

SUPPLEMENTAL PROVISIONS.

Continuance of powers of officers.

19. Whenever any person holding an office in the service of the State who has been invested with any powers under this Ordinance throughout any local area is transferred or posted at any subsequent time to an equal or higher office of the same nature within a like local area, he shall, unless the High Court otherwise directs or has otherwise directed, exercise the same powers in the local area to which he is so transferred or posted.

¹In clause (a) of sub-section (1) of section 18, for the words “one million rupees”, the words “ten million rupees” are substituted vide Khyber Pakhtunkhwa Act No. XVIII of 2017.

²The new sub-section (1A) is inserted after sub-section (1) of section 18 vide Khyber Pakhtunkhwa Act No. V of 2009.

20. The High Court in consultation with the Board of Revenue ¹[Province of Khyber Pakhtunkhwa] may make rules consistent with this Ordinance and any other enactment for the time being in force—
- (a) declaring what persons shall be permitted to act as petition-writers in Courts;
- (b) regulating the issue of licenses to such persons the conduct of business by them and the scale of fees to be charged by them; and
- (c) determining the authority by which breaches of such rules shall be investigated and the penalties which may be imposed.
21. In the event of the death of a District Judge or of his being prevented from performing his duties by illness or other cause, the Additional District Judge, if any, or in the absence of the Additional District Judge from the district, the senior most of the Civil Judges at the headquarters, shall assume charge of the district without interruption of his ordinary jurisdiction, and while so in charge shall perform the duties of the District Judge with respect to the filing of suits and appeals, receiving pleadings, execution of processes and the like, and shall be designated Additional District Judge or Civil Judge, as the case may be, in charge of the district and shall continue in such charge until the office of the District Judge has been resumed or assumed by an officer duly appointed thereto.
22. Any District Judge, leaving the headquarters and proceedings on duty to any place within his jurisdiction or in the event of his absence from the district on leave may delegate to the Additional District Judge or in the absence of an Additional District Judge to the Senior most of the Civil Judges at the headquarters, the powers of performing any of the duties enumerated in section 21 that may be emergent; and such officer shall be designated Additional District Judge or Civil Judge, as the case may be, in charge of the district.
23. In the event of the death, suspension or temporary absence of any Civil Judge the District Judge, may empower any other Civil Judge of the District to perform the duties of the Judge of the vacated Civil Court, either at the place of such Court or of his own Court, but in every such case the registers and records of the two Courts shall be kept separately.
24. (1) No Civil Court not having jurisdiction in original suits without limit as regards value ²[Deleted] shall receive, entertain or register any suit in which Pakistan or any of its Provinces or any public officer as defined in clause (17) of section 2 of the Code of Civil Procedure, 1908, in his official capacity is party ³[:]
- ³[.....]
- (2) In every such case the plaintiff shall be referred to the Court of the Civil Judge having jurisdiction in original suits without limit as regard value and such suit shall be instituted only in the Court of such Civil Judge and shall be heard at the headquarters of district.

Provisions regarding petition writers.

Temporary vacancy of office of District Judge.

Delegation of powers of the District Judge.

Temporary vacancy of office of Civil Judges.

Civil courts having unlimited jurisdiction regarding value to try suits against the State and its servants in their official capacity.

¹ In section 20, for the words "West Pakistan" the words "North-West Frontier Province" subs, by Khyber Pakhtunkhwa Adaptation of Laws Order, 1975 and then subs by the word "Khyber Pakhtunkhwa" vide Khyber Pakhtunkhwa Act No. IV of 2011.

² In sub-section (1) of section 24, the words "and no court of the small causes" are deleted vide Khyber Pakhtunkhwa Act No. X of 2019.

³ The "Colon" was substituted "by full-stop" and the proviso omitted by the Khyber Pakhtunkhwa Adaptation of laws Order, 1975.

¹[2 A, 2 B,]

(3) Nothing in this section shall be deemed to apply to a suit relating to the affairs of a Government Railway or to any suit merely because a public officer is a party thereto, in his capacity as —

- (a) a member of a local authority; or
- (b) curator, guardian, manager or representative of a private person or estate in virtue of an appointment, delegation, declaration or exercise of powers under—
 - (i) Order XXXII, rule 4 (4) of the Code of Civil Procedure, 1908;
 - (ii) section 195 of the Succession Act, 1925;
 - (iii) ²[section 29 of the Khyber Pakhtunkhwa Mental Health Act, 2017:];
 - (iv) section 7, 18 or 42 of the Guardians and Wards Act, 1890; or
 - (v) any provision of any ³[Provincial] enactment relating to Court of Wards.

List of holidays. 25. (1) Subject to such general orders as may be made by Government, the High Court shall prepare a list of days to be observed in each year as holidays in the Civil Courts.

(2) Every such list shall be published in the Official Gazette.

Seal of the Court. 26. Every Court shall have and use, as the occasion may arise, a circular seal two inches in diameter bearing round its circumference the title of the Court in English and Urdu script and in the center a device and impression of a crescent moon with the horns pointing upwards surmounted by a star, and the said seal shall be delivered to and kept in the custody of the presiding officer of the Court.

Power to frame rules. 27. (1) The High Court may, with the approval of Government, frame rules for the purposes of carrying into effect the provisions of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, the High Court may, with the approval of Government, frame rules for all or any of the following purposes, namely:-

- (a) the supervision of all Civil Courts and their visitation and inspection;
- (b) the exercise by the District Judges of the general control vested in them over the Civil Courts in their respective districts;
- (c) the places and times for the holding of Civil Courts;
- (d) the fees to be charged for processes issued by the Civil Courts or by any officer of any such Courts;
- (e) the fees payable in any suit or proceeding in any Civil Court by any

¹ Sub-section 2 A and 2B Inserted by W. P. Act. No. XV of 1963 and omitted by the Khyber Pakhtunkhwa Adaptation of Laws Order 1975.

² In section 24, in sub-section (3), in clause (b), sub-clause (iii) is subs vide Khyber Pakhtunkhwa Act No. X of 2019.

³ Subs vide the Khyber Pakhtunkhwa Adaptation of Laws Order 1975.

party in respect of the fees of the pleader of any other party; and

- (f) the manner in which the proceedings of the Civil Court shall be kept and recorded the manner in which the paper books for the hearing of appeals shall be prepared and the granting of copies.

28. (1) The enactments specified in the Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

Repeal and savings.

(2) The districts and headquarters of districts existing for the purposes of civil justice when this Ordinance comes into force shall be deemed to have been made and determined under this Ordinance.

(3) On the commencement of this Ordinance, if any suit or appeal is pending in the High Court or any other Civil Court, which under this Ordinance is to be tried or heard by some other Court, such suit or appeal shall stand transferred to the Court competent under this Ordinance to try or hear the same.

(4) (i) the District Judges;

(ii) the Additional Judges, ¹[. . .] and

(iii) the First Class Subordinate Judge, the Second Class Subordinate Judges, the Subordinate Judges ²[. . .] and Civil Judge;

appointed under any of the enactments repealed under sub-section (1) shall, on the commencement of this Ordinance, become District Judges, Additional District Judges and Civil Judges respectively under this Ordinance, and exercise powers and jurisdiction as such.

(5) Notwithstanding the repeal of the enactments mentioned in the Schedule, everything done, action taken, obligation, liability penalty or punishment incurred, inquiry or proceeding commenced officer appointed or person authorised, jurisdiction or power conferred, rule made and order issued under any of the provisions of the said enactments shall, if not inconsistent with the provisions of this Ordinance, continue in force and, so far as may be, be deemed to have been respectively done, taken, incurred, commenced, appointed authorised, conferred, made or issued under this Ordinance.

¹. The words "the Joint Judge and the Assistant Judges and", omitted by the Khyber Pakhtunkhwa Adaptation of Laws Order, 1975.

². The words "the Joint Subordinate judges" omitted by the Adaptation of Laws Order, 1975.

THE SCHEDULE
¹[ENACTMENTS REPEALED]
(See Section 28)

Year	No.	Short title	Extent of repeal
1	2	3	4
1931	I	The ² [Khyber Pakhtunkhwa] Courts Regulation, 1930.	The whole
1952	X	The ³ [Khyber Pakhtunkhwa] Courts Act 1952.	The whole

¹In the same schedule Nos. VI, VI, VII, VII, VII, IV, and No. II omitted by Khyber Pakhtunkhwa Adaptation of laws Order, 1975.

² In Schedule, for the words and hypen “North- West Frontier Province”, the words “Khyber Pakhtunkhwa” are substituted vide Khyber Pakhtunkhwa Act No. 1V of 2011.

³ In Schedule, for the words and hypen “North- West Frontier Province”, the words “Khyber Pakhtunkhwa” are substituted vide Khyber Pakhtunkhwa Act No. 1V of 2011.