

THE BALOCHISTAN CIVIL COURTS
ORDINANCE, 1962

(W.P. Ordinance II of 1962)

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SCHEDULE

'THE 7[BALOCHISTAN'] CIVIL COURTS

ORDINANCE, 1962

(W.P. Ordinance II of 1962)

[18" January, 1962]

An Ordinance to amend and consolidate the law
relating to Civil Courts in the Province of *[Balochistan].

Preamble. WHEREAS it is expedient to amend and consolidate
the law relating to Civil Courts in the Province of
[Balochistan].

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 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 1. (1) This Ordinance may be called the
and [Balochistan] Civil Courts Ordinance, 1962.

commencemen

t. (2) It extends to the whole of the Province of

[Balochistan] except the *[Tribal Areas]°.

(3) It shall come into force at once in the Divisions
of Bahawalpur, Dera Ismail Khan, Hyderabad, Khairpur,
Lahore, Multan, Peshawar, Quetta, Rawalpindi and Sargodha
and the District of Karachi, and in the remaining parts of the
Province or any specified area or areas thereof, it shall come
into force on such date® or dates as Government may, by

This Ord. was promulgated by the Governor of W.P. on 10" Nov., 1961; published in the W.P. Gazette (Extraordinary), dated 8
1962, pages 87-96; saved and given permanent effect by Article 225 of the Constitution of the Islamic Republic of Pakistan (1973).

Subs. by Baln. A.O. of 1975, for "West Pakistan".

Spelling of the word "Baluchistan", wherever it appears in this ordinance, is corrected by insertion of letter
Government of Balochistan, S&GAD's Notification No. SORI (4) 6/ S&GAD-89, dated 18" June, 1989.

Subs. by W.P .A.Order, 1964, for "Special Areas".

Extended to Tribal Areas of Quetta Division by West Pakistan Regulation, II of 1963.

19% January, 1962, was appointed as the date on which this Ordinance came into force in the area in Kalat District, specified
Bolan pass including the Railway Line from the border of the Sibi Tehsil up to the border of Jhatpat Tehsil and from the border

and Quetta Tehsils up to the border of Nushki Tehsil but exceeding the Railway Line falling in the Shorarud Tehsil. See West

Gazette (Extraordinary), 1962 also extended to the Districts of Quetta, Sibi, Loralai, Chaghi, Pishin and Ziarat by Government Balochistan Law Department's Notification No.Legis.1-45/Law/72, dated 23" June, 1988.

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(e)

instead of "u'; as per

notification in the Official Gazette, appoint in this behalf.

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 'TBalochistan];
- (b) "High Court" means the High Court of 'TBalochistan];
- (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 subservient 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;
- (f) "small cause" means a suit of the nature cognizable by a Court of Small Causes under the Provincial Small Cause Courts Act, 1887;
- (g) "unclassed 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

Classes of Courts. 3. Besides the Courts of Small Causes established under

the Provincial Small Cause Courts Act, 1887, and the Courts established under any other enactment for the time being in force, there shall be the following classes of Civil Courts. Namely:—

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

Civil Districts.

Districts Judge.

Additional District
Judges.

Original
Jurisdiction of
District Judges
in suits.

Civil Judges.

Pecuniary limits of
Jurisdiction of
Civil Judges.

Local limits of
jurisdiction.

(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 head-quarters of each such district.

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:

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.

(2) An Additional District Judge shall discharge such functions of a District Judge 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 regard the value.

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

- (a) fix the number of Civil Judges to be appointed;
- (b) make rules prescribing qualifications for recruitment 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.

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

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

Power to invest
Civil Judges
with Small
Cause Courts
jurisdiction.

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

Places of sitting of
Courts.

Control of Courts
and Presiding
Officers.

of his jurisdiction.

11. The High Court may, by notification, within such local limits as it thinks fit, confer upon any Civil Judge the jurisdiction of a Judge of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, for the trial of suits, cognizable by such Courts, upto such value not exceeding one thousand rupees as it thinks fit.

12. (1) Notwithstanding anything contained in the Succession Act, 1925, the High Court may, by general or special order, authorize 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.

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.

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.

Power to distribute
business.

Delegation of
powers by
District Judge.

Appeal from
District Judges
or Additional

District Judges.

Appeals from Civil
Judges.

1

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

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.

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

17. (1) Save as otherwise provided by any enactment
for the time being in force, an appeal from a decree or order of
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. (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 [five hundred thousand] rupees; and

(b) to the District Judge in any other case.

(2) Where the function of receiving any appeal which lie to the District Judge under the last preceding sub-

Substituted by Balochistan Act II of 1994, for the words “fifty thousand”. Earlier by Balochistan Ordinance XVI of 1979, the word “fifty” was substituted for the word “twenty five”.

Continuance of
powers of
officers.

Provisions
regarding
petition
writers.

Temporary vacancy
of office of
District Judge.

1

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

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.

20. The High Court, in consultation with the Board of Revenue, '[Balochistan] 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 Judge at the headquarters, shall assume
charge of the district without interruption of his ordinary
jurisdiction, and while so incharge shall perform the duties of

Subs. by Baln. A.O. of 1975, for the words "West Pakistan".

Delegation of
powers of
District Judge.

Temporary vacancy
of office of
Civil Judge.

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

1

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, incharge 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 proceeding 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, incharge 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 register 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 and no Court of the Small Causes 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 a party [;]

*[Provided that in the Karachi District any such suit, if the value thereof does not exceed twenty-five thousand rupees, may be instituted in the Court of the District Judge, the Additional District Judge or a Civil Judge of the First Class, and in the High Court where the value of the suit exceeds twenty-five thousand rupees.]

(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

Subs. by W.P. Act XII of 1963, for the full-stop.

2 Proviso added *ibid.*

oa a F Ww NY

Ins. by W.P. Act XV of 1963.

heard at the headquarters of the district.

'(2-A) Notwithstanding anything contained in sub-sections (1) and (2) in the Karachi District, any such suit, if the value thereof does not exceed twenty-five thousand rupees, may be instituted in and be tried by the Court of the District Judge, the Additional District Judge or Civil Judge of the First Class, and where the value of the suit exceeds twenty-five thousand rupees, it shall be instituted in and be tried by the High Court.]

3[((2-B) The High Court may transfer any civil suit, whether instituted before or after the coming into force of the *[Balochistan] Civil Courts (Amendment) Act, 1963, and whether pending before it or in any other Court, which under the provisions of sub-section (2-A) may be tried by a Civil Court constituted under this Ordinance, to such Civil Court, and such suit shall thereupon be tried by such Civil Court.]

(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?;

(i1) section 195 of the Succession Act, 19254;

(iii) section 69 or 71 of the Lunacy Act, 1912°;

(iv) section 7, 18 or 42 of the Guardians and Ward Act, 1890°;

Subs. by Baln. A.O. of 1975, for the words "West Pakistan".

i.e. Act V of 1908.

ie. Act XXXIX of 1925.

ie. Act IV of 1912.

i.e. Act VIII of 1890.

List of holidays. 25. (1)

(2)
Gazette.

Seal of the Court. 26.

or

(v) any provision of
[TBalochistan] enactment relating

to Court of Wards.

any

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.

Every such list shall be published in the official

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 or the
presiding officer of the Court.

Power to frame 27.
rules.

(1)

The High Court may, with the approval of
Government, frame rule 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:-

Subs. by Baln. A.O. of 1975, for the words "West Pakistan".

(a)

(b)

(c)

(d)

(e)

the supervision of all Civil Courts and
their visitation and inspection;

the exercise by the District Judges of the
general control vested in them over the
Civil Courts in their respective districts;

the places and times for the holding of
Civil Courts;

the fees to be charged for processes
issued by the Civil Courts or by any
officer of any such Courts;

the fees payable suit or
proceeding in any Civil Court by any
party in respect of the fees of the pleader

of any other party;

in any

and

Repeal and savings.

(f) the manner in which the proceedings of the Civil Courts shall be kept and recorded, the manner in which the paper books for the hearing of appeal 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.

(2) The districts and headquarters of districts existing for the purpose 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) (1) The District Judges;

(ii) the Additional Judges, the Joint Judges and the Assistant Judges; and

(iii) the First Class Subordinate Judges, the Second Class Subordinate Judges, the Subordinate Judges, the Joint Subordinate Judges and Civil Judges;

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 authorized, 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, authorized, conferred, made or issued under this

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Ordinance.

(See Schedule, on next page)

THE SCHEDULE
[ENACTMENTS REPEALED]
(See SECTION 28)

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Year

1918

1918

1926

1926

1926

1931

1939

1952

1952

1959

1956

No.

VI

VI

VII

VII

VII

VII

IV

II

Short title

3

The Punjab Courts Act, 1918.

The Punjab Courts Act, 1918, as applicable
to former Bahawalpur State.

The Sind Courts Act, 1926.

The Sind Courts Act, 1926, as applicable to the District of Karachi.

The Sind Courts Act. 1926, as applicable to the District of Khairpur,

The North-West Frontier Province

Courts Regulation, 1931.

The British Balochistan Courts Regulation, 1939.

The North-West Frontier Province Courts Act, 1952.

Dastoor-ul-Amal Diwani, Riasat Kalat.

The Sind Acts (Extension to Khairpur District) Ordinance, 1959.

The Karachi Courts Order, 1956.

Extent of repeal

4

The whole.

The whole.

The whole.

The whole except section 8.

The whole.

The whole.

The whole.

The whole.

Entry 4 of the First Schedule.

The whole except Clause 4 (2).