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THE CONCILIATION COURTS ORDINANCE, 1961.

'ORDINANCE NO. XLIV OF 1961
[28 November, 1961]

An Ordinance to make provision for the establishment of Conciliation Courts.

WHEREAS it is expedient to make provision for the establishment of Conciliation Courts to enable people to settle certain disputes through conciliation, and for matters connected therewith;

NOW, THEREFORE, in pursuance of the Proclamation of the seventh day of October, 1958, and in exercise of all powers enabling him in that behalf the President is pleased to make and promulgate the following Ordinance:—

1. Short title, extent and commencement.— (1) This Ordinance may be called the Conciliation Courts Ordinance, 1961.
(2) It extends to the whole of Pakistan.
(3) It shall come into force on such date" as the >[Federal Government] may, by notification in the Official Gazette, appoint in this behalf.

2. Definitions.— In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "cognizable offence" means a cognizable offence as defined in section 4 of the Code of Criminal Procedure, 1898 (Act V of 1898);

(b) "Conciliation Court" means a Conciliation Court constituted under this Ordinance;

4[(c) "Controlling Authority" means °[an officer appointed by Government to be the Controlling Authority for purposes of this Ordinance.]

(it extends only to the Islamabad Capital Territory)

(c) "Controlling Authority" means [Sessions Judge].

(d) "decree" means a decree as defined in section 2 of the Code of Civil Procedure, 1908 (Act V of 1908) ;

(e) "District Judge" shall include an Additional District Judge, a Subordinate Judge and a Civil Judge ;

'The Ordinance has been amended in its application to the Province of West Pakistan by West Pakistan Act No. XXVII of 1963; and by West Pakistan Ordinance XI of 1966, ss. 3, 15 and 16 (with effect from the 4th August, 1966).

The Ordinance has been extended to the Tribal Areas of Quetta Division by West Pakistan Regulation No. 1 of 1964 (with effect from the 25th August, 1964).

This Ordinance has been repealed in its application to the Province of Punjab, by Punjab Act No. XXXIV of 1964.

This Ordinance has been amended to the extent of Islamabad Capital Territory, see Ordinance No. XXVI of 1964.

°The 1st day of March, 1962, see Gaz. of P., 1962, Ext., p. 234c.

3Subs. by F.A.O., 1975, Art. 2 and Table, for "Central Government".

4Subs. *ibid.*, Art. 2 and Sch., for cl. (c).

SSubs. by the Conciliation Courts (Amdt.) Ordinance, 1982 (18 of 1982), s. 2, for "the Deputy Commissioner".

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(f)

(f)

*[(f)

(g)

“[(h)

“Government” in relation to any local area in a Province, means the Provincial Government, and in relation to Cantonments, the ‘[Federal Government] ;

(it extends only to the Islamabad Capital Territory)

“Government”, in relation to any local area in a Province, means the Provincial Government, and in relation to Cantonments [and the Islamabad Capital Territory,] the Federal Government.

“law relating to local government” means the Punjab Local Government Ordinance, 1979 (Punjab Ordinance No. VI of 1979), the Sind Local Government Ordinance, 1979 (Sind Ordinance No. XII of 1979), the North-West Frontier Province Local Government Ordinance, 1979 (N.W.F.P. Ordinance No. IV of 1979), the Baluchistan Local Government Ordinance, 1980 (Baluchistan Ordinance No. II of 1980), the Capital Territory Local Government Ordinance, 1979 (XXXIX of 1979), or, as the case may be, the Cantonments Act, 1924 (II of 1924) ;]

“party” shall include any person whose presence as such is considered necessary for a proper decision of the dispute and whom the Conciliation Court adds as a party to such dispute ;

“prescribed” means prescribed by rules made under this Ordinance ;

(i) “Union Council” means a Union Council constituted under a law relating to local government and, except in the Schedule, includes a Town Committee so constituted;

(ii) “ward” means a ward, an electoral unit or an electoral ward of a city, municipality or cantonment constituted under a law relating to local government.]

3. Cases referable to conciliation —(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), or in the Code of Civil Procedure, 1908 (Act V of

1908), —

(a)

(b)

all cases falling under Part I of the Schedule shall, save as otherwise provided, hereinafter be referred to conciliation under this Ordinance, and no civil or criminal court shall have jurisdiction to try any such case ; and

any of the cases falling under Part II of the Schedule may be so referred if all

the parties thereto agree to such a reference.

(2) The following cases relating to matters falling under Section B of Part I of the Schedule or under Section B of Part II thereof shall be excluded from conciliation, namely:—

- (a)
- (b)

cases in which the interest of a minor is involved;

cases where provision for arbitration has been made in a contract between the parties ;

*Subs. by F.A.O., 1975, Art. 2 and Table, for "Central Government".

2C1. (f8) ins. ibid.

*Subs. by the Conciliation Courts (Amtd.) Ordinance, 1982. (18 of 1982) s. 2 for cls (h) and (i).

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(c) cases by or against the '[Federal] or a Provincial Government or a public corporation or a public servant acting in the discharge of his duty ;

(d) cases which according to the customary law of a community are referable to a community panchayat.

°[(3) Government may, by notification in the official Gazette, amend the Schedule so as to—

(a) add thereto any class of cases relating to such disputes between private parties as are of a local nature and are capable of settlement by compromise ;

(b) omit any entry therefrom ; or

(c) alter or modify any entry therein.]

(4) Nothing in this section shall apply to cases relating to an offence specified in the Schedule if the accused had previously been convicted of a cognizable offence.

4. Application for constitution of a Conciliation Court.—(1) Where a case is, under this Ordinance, referable to conciliation, any party to the dispute may, in the prescribed manner, and on payment of the prescribed fee, apply to the Chairman of the Union Council concerned °[or, as the case may be, to the member representing the ward or, in the case of a ward which has more members than one, to such one of them as may be determined in the prescribed manner;] for the constitution of a Conciliation Court for the settlement of the disputes, and unless the Chairman °[or, as the case may be, the member], for reasons to be recorded in writing, rejects the application, he shall proceed to constitute, in the prescribed manner, a Conciliation Court for the purpose:

Provided that no application under this section shall be made against a person of unsound mind.

(2) Any person aggrieved by an order of rejection under sub-section (1) may, on the ground that the order is mala fide or substantially unjust, prefer, in the prescribed manner and within the prescribed time, an application for revision to the Controlling Authority, or to such other authority as may be prescribed.

(it extends only to the Islamabad Capital Territory)

(2) Any person aggrieved by an order of rejection under sub-section (1) may, on the ground that the order is mala fide or substantially unjust, prefer, in the prescribed manner and within the prescribed time, an application for revision to the controlling Authority or to such other authority as may be prescribed [if the case relates to a matter falling under Section A of Part I of the Schedule or to the District Judge, if the case relates to a matter falling under Section B thereof].

'Subs. by F.A.O., 1975, Art. 2 and Table, for "Central".

*Subs. by the Ord (18 of 1982) s. 3, for sub-section (3).

3Ins by the Conciliation Courts (Amdt.) Ordinance, 1982 (18 of 1982) s. 4.

5. Conciliation Courts, their composition, etc.—(1) A Conciliation Court shall be a body consisting of a Chairman and two representatives to be nominated, in the prescribed manner; by each of the parties to the dispute[.]!

2% * * * * *

(2) The Chairman of the Union Council ?[or, as the case may be, the member representing the ward, or, in the case of a ward which has more members than one, such one of them as may be determined in the prescribed manner,] shall be the Chairman of the Conciliation Court, but where he is, owing to illness or any other cause, unable to act as Chairman, or does not, on account of any personal consideration, wish to do so, or his impartiality is challenged by any party to the dispute, any other person appointed in the prescribed manner, not being a person nominated by any party, shall be the Chairman of the Court.

(3) If either party to the dispute consists of more than one person, the Chairman shall call upon the persons constituting that party to nominate the two representatives on its behalf, and if they fail so to nominate, shall authorize any one of such persons to do so, and thereupon the person so authorized shall alone have the right to nominate such representatives.

(4) Where representatives required under this section to be nominated are not nominated within the prescribed time, then,—

(a) if the case falls under Part I of the Schedule, the Conciliation Court shall, without such representatives, be deemed to have been validly constituted for the purposes of this Ordinance, and conciliation shall proceed accordingly; and

(b) if the case falls under Part II of the Schedule, the “[Court] shall issue a certificate that conciliation has failed.

6. Jurisdiction of Conciliation Courts, etc.—(1) Subject to the provision of sub-section (2), a Conciliation Court shall be constituted and shall have jurisdiction to try a case only when the parties to the dispute ordinarily reside within the *[jurisdiction of the same Union Council] in which the offence has been committed or the cause of action has arisen.

6[(2) Where one of the parties to a dispute ordinarily resides, and the offence has been committed or the cause of action has arisen, in one ward of a city, municipality or cantonment, and the other party ordinarily resides in another ward of the same city, municipality or cantonment, then, a Conciliation Court may be constituted in the ward in which the offence has been committed or, as the case may be, the cause of action has arisen.]

'Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch. for colon.

*Proviso omitted ibid.

3Ins. by Ord.18 of 1982, s. 5.

'Subs. by the Conciliation Courts (Amdt.) Ordinance, 1982 (18 of 1982), s. 5, for “Chairman”.
'Subs. ibid., s. 6, for “limits of the Union”.

®Subs. ibid., for sub-section (2).

7. Power of Conciliation courts to award compensation.—(1) Save as otherwise provided in this Ordinance, a Conciliation Court shall have no power to pass a sentence of imprisonment or fine, but if it holds a person guilty of an offence specified in the Schedule, it may order the accused to pay to the aggrieved person compensation the amount of which may not exceed [five hundred] rupees, but if the offence is one punishable under section 428 or section 429 of the Pakistan Penal Code (Act XLV of 1860), the amount of compensation may exceed [five hundred] rupees but not “one thousand” rupees.

(2) In a case relating to a matter falling under Section B of Part I of the Schedule or under Section B of Part II thereof, the Conciliation Court shall have the power to order payment of money up to the amount specified therein in respect of such matter or delivery of property to the person entitled thereto.

8. Finality of the decisions of Conciliation Courts.—

3x * * * * *

(2) *[Any party may, within thirty days of the decision of a Conciliation Court], apply, in the prescribed manner,—

(a) to the Controlling Authority, if the case relates to a matter falling under Section A of that Part, or (it extends only to the Islamabad Capital Territory)

(a) to the Controlling Authority, if the case relates to a matter falling under [Section A of Part I of the Schedule].

(b) to the District Judge, if the case relates to a matter falling under Section B thereof, and the Controlling Authority or the District Judge, as the case may be, if satisfied that there has been a failure of justice, may set aside or modify the decision, or direct that the dispute be referred back to the Conciliation Court for reconsideration.

(3) If the decision of Conciliation Court is not unanimous, and the case falls under Part II of the Schedule, the Court shall issue a certificate that conciliation has failed.

(4) Notwithstanding anything in any law any matter decided by a Conciliation Court in accordance with the provisions of this Ordinance shall not be tried in any Court, including a Conciliation Court.

9. Enforcement of decree.—(1) Where a Conciliation Court decides to award compensation to a person or to order the delivery of property, it shall pass a decree in such form and in such manner as may be prescribed, and shall enter the particulars thereof in the prescribed register.

'Subs. ibid s. 7, for “two hundred and fifty”.

?Subs. ibid., for “five hundred”.

*Sub-section (1) omitted by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch., 4Subs. ibid., for certain words.

(2) If any money is paid or any property is delivered in the presence of the Conciliation Court in satisfaction of the decree, it shall enter the fact of payment or delivery, as the case may be, in the aforesaid register.

(3) Where a decree relates to payment of compensation and the decretal amount is not paid within the prescribed time, the same shall, if the Chairman of the Conciliation Court so directs, be recovered as arrears of land revenue, and, on recovery, shall be paid to the decree holder.

(4) Where the satisfaction of a decree can be had otherwise than by payment of compensation, the decree may be presented for execution to such civil Court as the District Judge may, by special or general order, direct, and such court shall thereupon proceed to execute the decree as if it were a decree passed by itself.

(5) A Conciliation Court may, if it thinks fit, direct that the amount of compensation be paid in such instalments as it may fix.

10. Procedure on failure of conciliation. Where a certificate is issued that conciliation has failed, either under clause (b) of sub-section (4) of section 5 or under sub-section (3) of section 8, any party to the dispute may seek its remedy in the court in which it would in law be entitled to seek such remedy if this Ordinance had not been promulgated.

11. Power of Conciliation Courts to summon witnesses, etc.—(1) A Conciliation Court may issue summons to any person to appear and give evidence, or to produce or cause the production of any document:

Provided that—

(a) no person who is exempt from personal appearance in Court under sub-section (1) of section 133 of the Code of Civil Procedure, 1908 (Act V of 1908), shall be required to appear in person ;

(b) a Conciliation Court may refuse to summon a witness or to enforce a summons already issued against a witness when in the opinion of the Court the attendance of the witness cannot be procured without such delay, expense or inconvenience as in the circumstances would be unreasonable ;

(c) a Conciliation Court shall not require any person living beyond its jurisdiction to give evidence or to produce or cause the production of a document unless such sum of money is deposited for payment to him as the Court would think sufficient for defraying his travelling and other expenses.

(2) If any person to whom a Conciliation Court has issued summons to appear and give evidence or to produce or cause the production of any document before it wilfully disobeys such summons, the Conciliation Court may take cognizance of such disobedience, and, after giving such person an opportunity to explain, sentence him to a fine not exceeding twenty-five rupees.

12. Contempt of Conciliation Courts. A person shall be guilty of contempt of a Conciliation Court if he, without lawful excuse, —

(a) offers any insult to the Conciliation Court or any member thereof while the Court is functioning as such ; or

(b) causes any interruption in the work of the Conciliation Court ; or

(c) fails to produce or deliver a document when ordered by the Conciliation Court to do so ; or

(d) refuses to answer any question of the Conciliation Court which he is bound to answer; or

(e) refuses to take oath to state the truth or to sign any statement made by him when required by the Conciliation Court to do so ; and the Conciliation Court may, without any complaint having been made to it, forthwith try such person for such contempt and sentence him to a fine not exceeding fifty rupees.

13. Recovery of fine.—(1) Where a Conciliation Court imposes a fine under section 11 or section 12 and such fine is not immediately paid, it shall record an order stating the amount of fine imposed and the fact that it has not been paid, and shall forward the same to the nearest Judicial Magistrate who shall proceed to recover it in accordance with the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), as if it were a fine imposed by himself, and such Magistrate may also sentence the accused to imprisonment in default of payment of such fine.

(2) All fines paid to a Conciliation Court under sections 11 and 12, or collected on behalf of a Conciliation Court under this section, shall form part of the funds of the 1[local council] concerned.

*[Explanation—In this sub-section, “local council” means a Union Council, Town Committee, Municipal Corporation, Municipal Committee, Metropolitan Corporation or, as the case may be, Cantonment Board constituted under a law relating to local government.]

14. Limitation, etc., in certain cases. Where a case relating to a matter falling under Section B of Part II of the Schedule is referred to conciliation and conciliation fails, and the case is subsequently taken to a Civil Court, in computing the period of limitation prescribed therefore by or under any law for the time being in force, the time spent on conciliation proceedings, commencing from the date of the application made under section 4 and ending on the day the certificate of failure of conciliation is issued, shall, notwithstanding anything in the Limitation Act, 1908 (IX of 1908), be excluded.

15. Procedure.—(1) Save as otherwise expressly provided by or under this Ordinance, the provisions of the Evidence Act, 1892 (I of 1892), the Code of Criminal Procedure, 1898 (Act V of 1898), and of the Code of Civil Procedure, 1908 (Act V of 1908), shall not apply to proceedings before any Conciliation Court.

(2) Sections 8 to 11 of the Oaths Act, 1873 (X of 1873), shall apply to all proceedings before Conciliation Courts.

‘Subs. by the Conciliation Courts (Amdt.) Ordinance, 1982 (18 of 1982), s. 8, for “Union Council”. Explanation added ibid.

16. No appearance through counsel.—(1) Notwithstanding anything contained in the Legal Practitioners Act, 1873 (XVIII of 1879), no legal practitioner shall be permitted to appear on behalf of any party to a dispute before any Conciliation Court or before any Controlling Authority or other authority exercising powers under this Ordinance.

(it extends only to the Islamabad Capital Territory)

16. [No appearance through Counsel.]— (1) Notwithstanding anything contained in the [Legal Practitioners and Bar Councils Act, 1973 (XXXV of 1979), no legal practitioner shall be permitted to appear on behalf of any party to a dispute before any Conciliation Courts or before any Controlling Authority or other authority exercising powers under this Ordinance.

(2) If a person required under this Ordinance to appear before a Conciliation Court is a purdanashin lady, the Conciliation Court may permit her to be represented by a duly authorized agent who shall in no case be a paid agent.

17. Transfer of certain cases.—(1) Where the Controlling Authority is of the opinion that the circumstances of a case relating to a matter falling under Section A of Part I of the Schedule or under Section A of Part II thereof and pending before a Conciliation Court are such that the public interest and the ends of justice demand its trial in a Criminal Court, the said Authority may, notwithstanding anything contained in this Ordinance, withdraw the same from the Conciliation Court and direct that it be referred to the Criminal Court for trial and disposal.

(2) A Conciliation Court may, if it is of the opinion that in a case relating to a matter as aforesaid and pending before it the ends of justice demand a punishment for the accused, forward the case to the Criminal Court for trial and disposal.

18. Investigation by police. Nothing in this Ordinance shall prevent the police from investigating a cognizable case by reason of the fact that the case relates to an offence specified in Section A of Part I of the Schedule, but if any such case is taken to a criminal Court such Court may, if it thinks fit, direct that it be referred to conciliation under this Ordinance.

19. Pending cases. This Ordinance shall not apply to cases referable under this Ordinance to conciliation which, immediately before the coming into force of this Ordinance, are pending in any civil or criminal Court, and such cases shall be disposed of by those Courts as if this Ordinance had not been promulgated:

Provided that if all the parties to any such case agree to have the same decided by a Conciliation Court, the proceedings thereof shall terminate, and the case shall be referred to conciliation in accordance with the provisions of this Ordinance.

(it extends only to the Islamabad Capital Territory)

19. [Pending Cases.] shall be omitted.

20. Power to exempt. Government may, by notification in the official Gazette, exempt any area or areas, or any case or class of cases, or any community from the operation of all or any of the provisions of this Ordinance.

21. Power to make rules. Government may, by notification in the Official Gazette, make rules to carry into effect the provisions of this Ordinance.

SCHEDULE

Section A— Criminal cases

(1) Sections 143 and 147 of the Pakistan Penal Code (Act XLV of 1860), read with the Third or the Fourth clause of section 141 of that Code, when the common object of the unlawful assembly is to commit an offence under section 323, or 426 or 447 of that Code, and when not more than ten persons are involved in the unlawful assembly.

(2) Sections 160, 323, 334, 341, 342, 352, 358, 426, 447, 504, 506 (first part), 508, 509 and 510, Pakistan Penal Code.

(3) Sections 403, 406, 417 and 420, Pakistan Penal Code, when the amount in respect of which the offence is committed does not exceed one hundred rupees.

(4) Section 427, Pakistan Penal Code, when the value of the property involved does not exceed one hundred rupees.

(5) Sections 428 and 429, Pakistan Penal Code, when the value of the animal does not exceed one hundred rupees.

(6) Sections 24, 26 and 27 of the Cattle-trespass Act, 1871 (I of 1871).

(7) Attempts to commit or the abetment of the commission of any of the above offences.

Section B— Civil cases

1. Suit for the recovery of

money due on contracts,
receipts or other
documents.

2. Suit for the recovery of

movable property, or for
the value thereof.

— In the case of Union Councils,
— when the amount claimed, or the
— price of movable property, does
— not exceed [one thousand] rupees
—;and

3. Suit for compensation

for wrongfully taking or
damaging movable
property.

4. Suit for damages by

cattle trespass.

— In the case of *[Town Committees,

— Municipal Corporations, Municipal

Committees, — Metropolitan

Corporations and

— Cantonment Boards] when the amount

claimed, — or the price of movable

property, does — not exceed 3[ten

thousand] rupees.

'Subs. by the Conciliation Courts (Amdt.) Ordinance, 1982 (18 of 1982), s. 9, for "five hundred".

?Subs. *ibid.*, for "Union and Town Committees".

3Subs. *ibid.*, for "one thousand".

PART II

Section A— Criminal cases

- (1) Sections 324, 343, 355, 357, 427, 430, 448, 461, 498, 500, 501 and 502, Pakistan Penal Code (Act XLV of 1860).
- (2) Section 379, Pakistan Penal Code, when the value of the property involved does not exceed two hundred and fifty rupees.
- (3) Sections 380 and 381, Pakistan Penal Code, when the value of the property involved does not exceed one hundred rupees.
- (4) Sections 403, 406, 417 and 420, Pakistan Penal Code, when the amount in respect of which the offence is committed exceeds one hundred rupees, but does not exceed two hundred and fifty rupees.
- (5) Section 408, Pakistan Penal Code, when the value of the property involved does not exceed one hundred rupees.
- (6) Section 411, Pakistan Penal Code, when the value of the property involved does not exceed two hundred and fifty rupees.
- (7) Sections 428 and 429, Pakistan Penal Code, when the value of the animal exceeds one hundred rupees but does not exceed five hundred rupees.
- (8) Section 451, Pakistan Penal Code, when the offence is committed with the intention of committing any of the offences mentioned in Section A of Part I of this Schedule or in this section.
- (9) Attempts to commit or the abetment of the commission of any of the above offences.

Section B— Civil cases

All civil cases (excepting those mentioned in Section B of Part I of this Schedule), in which the value of the claim does not exceed '[twenty-five thousand] rupees.

'Subs. by the Conciliation Courts (Amdt.) Ordinance, 1982 (18 of 1982), s. 9, for "ten thousand".