

*Repealed by W.P. Ordinance
27 1962*

SIND ACT No. VII OF 1926¹.

[THE SIND COURTS ACT, 1926.]

[21st August, 1926].

An Act to consolidate and amend the law relating to the Courts in Sind.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts in Sind ; and whereas the previous sanction of the Governor General, required by section 80A of the Government of India Act, has been obtained for the passing of this Act : It is hereby enacted as follows :—

5 an
Geo.
c. 61

Preliminary.

Short title.

1. This Act may be called the Sind Courts Act, 1926.

Extent and
commence-
ment.

2. (1) It extends to the ²[Province of Sind].

(2) It shall come into force on such date³ as the ⁴[Provincial Government] may, by notification in the ⁵[Official Gazette] appoint.

The Chief Court.

Establish-
ment of
Chief Court.

3. On and from the commencement of this Act there shall be established for Sind a Chief Court hereinafter referred to as " the Chief Court ".

Constitution
of Chief
Court.

⁶[4. The Chief Court shall consist of a Chief Judge and other Judges.]

5. [Provision for vacancy in the office of Chief Judge.] Omitted by the A. O., 1937.

6. [Provision for vacancy in the office of a Judge other than the Chief Judge.] Omitted by the A. O., 1937.

¹ For Statement of Objects and Reasons, see B. G. G., 1925, Pt. V, pp. 481-84; for Report of the Select Committee see *ibid.*, 1926, Pt. V, pp. 3-6; and for Proceedings in Council see Bombay Legislative Council Debates, 1925, Vol. XVI; 1926, Vol. XVIII.

² Subs. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 3(ii)(a) (w. o. f. 30th May, 1951), for "Presidency of Bombay".

³ Came into force on and w. f. 15th April, 1940, vide G.N., H.D. (Poll.) No. 1449-H/39, dated, 27th March, 1940, see S. G. G., 1940, Pt. I, p. 591.

⁴ Subs. by the A. O., 1937, for "G. in C.".

⁵ Subs. *ibid.*, for "B. G. G.".

⁶ Subs. *ibid.*, for the original section 4.

7. (1) The Chief Judge whether permanent or '[acting]' shall have rank and precedence before the other Judges of the Chief Court.

Rank and precedence of Chief Judge and Judges of Chief Court.

(2) Save as aforesaid and subject to any general or special direction by the '[Provincial Government]' the Judges shall have rank and precedence according to the seniority of their appointment as such judges :

Provided that a permanent judge shall be deemed to be senior to, and shall have rank and precedence before, an '[acting]' judge.

8. The Chief Court shall be the highest civil court of appeal and revision and the highest court of criminal appeal and revision for Sind 3* * * * *

Civil and criminal jurisdiction of Chief Court.

9. [Civil jurisdiction in Karachi District.] Rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 6, Sch. II.

10. [Criminal jurisdiction in Karachi sessions division.] Rep. by the Sind Laws (Adaptation, Revision, Repeal, and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 6, Sch. II.

11. (1) Except as by this Act or by any other enactment for the time being in force otherwise provided, the Chief Court may make rules to provide in such manner as it thinks fit for the exercise by one or more of its judges of any of its powers.

Delegation of powers to members of Court: Full Bench.

(2) The Chief Court may make rules, declaring what number of judges, not being less than three, shall constitute a full bench of the Chief Court, and may by these rules prescribe the mode of determining which judges shall sit as a full bench, when a full bench sitting becomes necessary.

(3) Subject to the provisions of sub-section (2), the Chief Judge may determine which judge in each case shall sit alone and which judges of the Chief Court shall constitute any bench.

12. Any single judge of the Chief Court and any bench of judges thereof, not being a full bench, may in any case refer for the decision of a bench of two judges or of a full bench, respectively,

Power to refer question to full bench.

1 Subs. by the A. O., 1937, for "officiating".

2 Subs. *ibid.*, for "G. in C.".

3 The words "and the principal civil court of original jurisdiction for the civil district of Karachi and shall be the Court of Session and shall exercise the powers and perform the duties of a Session Judge in the Sessions Division of Karachi" rep. by the Sind Laws (Adaptation Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 6, Sch. II.

any question of law or custom having the force of law, or the construction of any document, or the admissibility of any evidence arising before the judge or bench and shall dispose of the case in accordance with the decision of the bench to which the question has been referred.

* * * * *

13. [Review in certain criminal cases.] Omitted by the Criminal Procedure Amendment Act, 1943 (XXVI of 1943), s. 7 (3) (b).

Appeal from original civil jurisdiction of Chief Court.

14. (1) Except as otherwise provided by any enactment for the time being in force, an appeal from any original decree or from any order against which an appeal is permitted by any law for the time being in force made by a single judge of the Chief Court, shall lie to a Bench consisting of two other judges of the Chief Court.

Appeals from appellate civil jurisdiction of a single judge.

(2) Except as otherwise provided by any enactment for the time being in force, an appeal from any appellate decree made by a single judge of the Chief Court shall lie to a Bench consisting of two other judges of the Chief Court, if the judge who made the decree declares that the case is a fit one for appeal.

Procedure of Chief Court in exercise of civil and criminal jurisdiction.

15. (1) Notwithstanding anything contained in the Code of Civil Procedure, 1908, or the Code of Criminal Procedure, 1898, the Chief Court shall record evidence including examinations of accused persons and judgments in such manner as it may direct by rule made with the sanction of the ²[Provincial Government].

V of 1908.

V of 1898.

(2) So much of rule 35 of Order XLI of the First Schedule to the Code of Civil Procedure, 1908, as requires the decree to be signed and dated by the judge or judges who passed it, shall not apply to the Chief Court in the exercise of its appellate jurisdiction.

V of 1908.

Ministerial officers of Chief Court.

16. (1) ³[There may be appointed] Registrars, Deputy Registrars, Assistant Registrars, an Official Receiver, Official Commissioners, a Clerk of the Crown and such other ministerial officers as may be necessary for the administration of justice by the Chief Court and for the exercise and performance of the powers and duties conferred and imposed on it by this Act.

⁴(2) * * * * *

¹ The proviso which was added by the Criminal Procedure Amendment Act, 1943 (26 of 1943) s.7(3)(a), rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 3 of 1955), s. 6, Sch. II.

² Subs. by the A. O., 1937, for "G. in C."

³ Subs. *ibid* for "Subject to any rules and restrictions which may be prescribed by the Governor in Council the Chief Judge may appoint".

⁴ Sub-section (2) omitted by *ibid*.

(3) The officers appointed under sub-section (1) shall exercise such powers and discharge such duties of a non-judicial or quasi-judicial nature as the Chief Court may direct.

¹(4) * * * * *

¹(5) * * * * *

17. The general superintendence, direction and control over all courts subject to its appellate jurisdiction shall be vested in the Chief Court. Superintendence and control of other courts

18. The Chief Court may, subject to such rules as it may with the sanction of the ²[Provincial Government] determine, admit proper persons to be Advocates, Pleaders and Attorneys in any court in Sind, and may remove or suspend from practice for misbehaviour any person so admitted; and may authorise such Advocates, Pleaders and Attorneys to plead or to act or to plead and act for suitors and accused persons. Admission and removal of Advocates, pleaders and Attorneys.

19. In addition to any other power to make rules expressly or by implication conferred by this Act the Chief Court may, with the sanction of the ²[Provincial Government], make rules consistent with this Act and any other enactment for the time being in force to regulate any of the following matters, namely :— Power to make rules.

(a) the supervision of all Courts subject to the control of the Chief Court 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 civil districts ;

(c) all matters relating to the officers of courts ;

(d) the translation of any papers filed in the Chief Court and the preparation of paper books for the hearing of appeals and the copying, typing or printing of any such papers or translations and the recovery from the persons at whose instance or on whose behalf papers are filed, of the expense thereby incurred ;

(e) the holidays and vacations of the Chief Court and the courts subordinate to it;

¹ Sub-sections (4) and (5) omitted by the A. O., 1937.

² Subs. *ibid.*, for "G. in C."

(f) the places and times for the holding of courts ;

(g) the qualifications and admission of proper persons to be petition-writers in courts, the issue of licenses to such persons, the fees to be charged by such persons and the conduct of business by such persons, the punishment by a fine not exceeding fifty rupees of the breach of any such rules, and the authority by which such breaches shall be investigated and fines imposed ; and the recovery of any such fine as though it were a fine imposed by a magistrate in the exercise of his ordinary jurisdiction ;

(h) the fees to be charged for processes issued by the civil courts, or by any officer of any such court and the fees payable in any suit or proceeding in any such court by any party to such suit or proceeding in respect of the fees of the pleader of any other party to such suit or proceeding ;

(i) the manner in which the proceedings of civil courts shall be kept and recorded, the manner in which paper books for the hearing of appeals shall be prepared and the granting of copies.

Registers,
books,
accounts,
returns,
statements
and reports.

20. The Chief Court shall keep such registers, books and accounts as may be necessary for the transaction of its business, or required by the '[Provincial Government]' and shall comply, in such form and manner as the '[Provincial Government]' may deem proper, with any requisition which the '[Provincial Government]' may make for records of, or papers belonging to the Chief Courts or any court subordinate to it, or for certified copies of or extracts from, such records or papers, or for returns, statements or reports.

District Courts.

Civil
districts.

21. (1) For the purposes of this Act the '[Provincial Government]' may by notification divide Sind into civil districts and fix the limits of such civil districts and determine the headquarters of each such district.

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

District
courts.

22. (1) There shall be in each civil district 2* * * * a district court and the '[Provincial Government]' shall appoint a district judge to each such court.

1 Subs. by the A. O., 1937, for "G. in C."

2 The words "other than that of Karachi" rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 3 of 1955), s. 6, Sch. II.

(2) The district court shall be the principal court of original civil jurisdiction in the civil district.

Original
jurisdiction
of district
court.

23. (1) The ¹[Provincial Government] may appoint joint judges to any district court.

Joint
Judges.

(2) Every such joint judge shall exercise the powers and jurisdiction of the district court concurrently with the district judge in such matters as may be referred to him by the district judge.

(3) All Regulations and Acts now or hereafter in force and applying to a district judge shall be deemed to apply also to the joint judge and the seal of the joint judge shall be the same as is used by the district judge.

24. (1) The ¹[Provincial Government] may appoint assistant judges to any district court.

Assistant
Judges.

(2) An assistant judge shall have jurisdiction to hear such original suits, such applications or references under special Acts, and such miscellaneous applications, not being of the nature of appeals, as the district judge may refer to him.

25. (1) The ¹[Provincial Government] may confer upon any assistant judge the power to hear such appeals from the decrees and orders of the subordinate courts as lie to the district court and as may be referred to him by the district judge.

Appellate
jurisdiction
of assistant
Judge.

(2) An assistant judge on whom the power to hear appeals has been conferred under this or any other act, shall continue to have such power so long and so often as he may hold the office of assistant judge, without reference to the civil district in which he may be employed: Provided that the ¹[Provincial Government] may at any time withdraw such power.

26. The ¹[Provincial Government] may confer upon any joint or assistant judge any of the powers and jurisdiction of the district court within any specified part of a civil district and such powers and jurisdiction shall not, while so conferred upon the joint or assistant judge, be exercised in such part by the district judge.

Power to
invest joint
or assistant
judge with
powers of
district
court.

27. The district judge shall have general control over all the civil courts within the district.

Control of
courts.

¹ Subs. by the A. O., 1937, "G. in C.",

Appellate
jurisdiction
of district
court.

28. (1) Save as provided in sections 8,¹ * 26, 33, 34 and 36 in any case where a decree or order of a subordinate court is appealable, the appeal shall lie to the district court.

(2) Where a decree or order passed by an assistant judge in his original jurisdiction is appealable, the appeal shall lie to the Chief Court or to the district court, according as the amount or value of the subject-matter exceeds, or does not exceed, five thousand rupees.

Subordinate Courts.

* Subordinate
courts.

29. (1) There shall be in each civil district so many civil courts subordinate to the District Court (in this Act called "subordinate courts") as the ²[Provincial Government] may by notification direct.

(2) The ²[Provincial Government] may determine the local limits of the jurisdiction of subordinate courts and the places where such courts shall be held.

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

(4) The ²[Provincial Government] shall appoint a subordinate judge to each such court.

(5) The ²[Provincial Government] may at any time for special reasons close temporarily any such court.

Joint sub-
ordinate
Judges and
deputation.

30. (1) The ²[Provincial Government] may appoint joint subordinate judges to a subordinate court.

(2) The district judge, with the previous sanction of the Chief Court, may depute to a subordinate court the judge of any other subordinate court in the civil district.

(3) A subordinate judge so appointed or deputed to a subordinate court shall dispose of such civil business within the pecuniary limits of his jurisdiction as the judge of such court, subject to the control of the district judge, may refer to him.

³[A subordinate judge so deputed may also dispose of the civil business of his court at the place of his deputation subject to the general or special orders of the Chief Court in this behalf.]

¹ The figure and comma "9," rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 6, Sch. II.

² Subs. by the A. O., 1937, for "G. in C."

³ Added by Sind 7 of 1930, s. 6(1).

31. (1) The ordinary jurisdiction of subordinate judges of the first class shall extend to all original suits and proceedings of a civil nature. Jurisdiction of sub-ordinate courts.

(2) The ordinary jurisdiction of subordinate judges of the second class shall extend to all such suits and proceedings wherein the subject matter does not exceed five thousand rupees in amount or value.

¹[Provided that the ²[Provincial Government] may invest any subordinate judge of the second class of not less than ³[seven] years' standing and specially recommended in this behalf by the Chief Court with power to exercise jurisdiction over all such suits and proceedings wherein the subject-matter does not exceed seven thousand and five hundred rupees in amount or value. A subordinate judge so empowered shall continue to exercise this power so long and as often as he may fill the office of a subordinate judge of the second class without reference to the district in which he may be employed unless the powers are withdrawn by Government.]

32. (1) A subordinate judge of the first class, in addition to his ordinary jurisdiction, shall exercise in the civil district to which his court belongs a special jurisdiction in respect of such suits and proceedings of a civil nature * * * * as may arise within the local limits of the jurisdiction of all subordinate courts in the civil district of which the judges are of the second class ⁵[and wherein the subject-matter exceeds the pecuniary jurisdiction of the subordinate judge of the second class as defined by section 31]. Special jurisdiction of first class sub-ordinate Judge.

(2) In any civil district in which there are two or more subordinate judges of the first class, the district judge, subject to the orders of the Chief Court, shall determine the local limits within which each such judge shall exercise his special jurisdiction.

33. Where a decree or order passed by a subordinate judge * * * in any suit or proceeding of which the amount or value of the subject-matter exceeds five thousand rupees is appealable, the appeal shall lie to the Chief Court. Appeal from decision of first class subordinate Judge.

¹ This proviso added by Sind 7 of 1930, s. 6(2).

² Subs. by the A. O., 1937, for "G. in C.".

³ Subs. by Sind 25 of 1947, s. 2 as subsequently amended by Sind 7 of 1949, Sch., for "ten.".

⁴ The words "wherein the subject-matter exceeds five thousand rupees in amount or value" omitted by Sind 7 of 1930, s. 6(3)(i).

⁵ Added *ibid*, s. 6(3)(ii).

⁶ The words "of the first class in his ordinary or special jurisdiction" *rep. ibid*, s. 6(4).

Appellate jurisdiction of first class subordinate judge or small cause court judge.

34. (1) The '[Provincial Government] may invest any subordinate judge of the first class, or any judge of a court of small causes established under the Provincial Small Cause Courts Act, 1887, with power to hear appeals from such decrees and orders of subordinate courts as may be referred to him by the district judge. IX of 1887.

(2) The appellate decision in any such case shall have the same force as if passed by the district judge.

(3) A subordinate judge of the first class or a judge of a court of small causes, on whom the power of hearing appeals has been conferred under this or any other Act, shall continue to have such power so long and so often as he may hold the office of subordinate judge of the first class or judge of a court of small causes, respectively, without reference to the civil district in which he may be employed.

Power to invest subordinate judges with small cause powers.

35. The '[Provincial Government] may confer upon any subordinate judge within any specified local limits the jurisdiction of a court of small causes for the trial of suits cognizable by such courts upto any specified amount not exceeding, in the case of a subordinate judge of the first class, one thousand rupees, and in the case of a subordinate judge of the second class, ²[three hundred] rupees.

Power to invest subordinate judges with jurisdiction under certain Acts.

36. (1) The Chief Court may by general or special order invest any subordinate judge within such local limits and subject to such pecuniary limitation, as may be prescribed in such order, with all or any of the powers of a district judge or a district court, as the case may be, under the ^{3*} Succession Act, 1925, or paragraph 5 of Schedule III to the Code of Civil Procedure, 1908. XXX of 1925. V of 1908.

(2) Every order made by a subordinate judge by virtue of the powers conferred upon him under sub-section (1) shall be subject to appeal to the Chief Court or the district court according as the amount or value of the subject-matter exceeds or does not exceed five thousand rupees.

(3) Every order of the district court passed on appeal under sub-section (2) from the order of the subordinate judge shall be subject to an appeal of the Chief Court under the rules contained in the Code of Civil Procedure, 1908, applicable to appeals from appellate decrees. V of 1908.

¹ Subs. by the A. O., 1937, for "G. in C."

² Subs. by the Sind 7 of 1930, s. 6(5), for "two hundred".

³ The word "Indian" omitted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 4 (w. e. f. 30th May, 1957).

37. (1) No subordinate court other than the court of a subordinate judge of the first class and no court of the small causes shall receive or register any suit in which the ¹[Crown] or ²[any servant of the Crown] in his official capacity is a party.

Government
suits.

(2) In every such case, the plaintiff shall be referred to the court of the subordinate judge of the first class and such suit shall be instituted only in the court of the subordinate judge of the first class and shall be heard by such subordinate judge, subject to the provisions of section 24 of the Code of Civil Procedure, 1908.

(3) Nothing in this section shall be deemed to apply to a suit against the administration of a Government railway; or to apply to any suit merely because ³[a servant of the Crown] is a party thereto, in his capacity of—

(a) member of a local authority,

(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 32, rule 4(4), of the Code of Civil Procedure 1908;

(ii) section 195 of the ⁴* Succession Act, 1925;

(iii) section 69 or 71 of the ⁴* Lunacy Act, 1912;

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

(v) section 7(2)(c) or 34 of the Sindh Incumbered Estates Act, 1896; or

(vi) section 3, 19(1), 19(2), 20, 22(1) or 41(1) of the ⁵[Sind] Court of Wards Act, 1905.

Temporary Vacancies

38. In the event of the death of a district judge or of his being prevented from performing his duties by illness or other cause or of his absence from the civil district on leave the joint judge, if any, or the first in rank of the assistant judges in the district, or in the

Temporary
vacancy of
office of
district
judge.

¹ Subs. by the A. O., 1937, for "Secretary of State for India in Council".

² Subs. *ibid.* for "any officer of Govt.".

³ Subs. *ibid.* for "an officer of Govt.".

⁴ The word "Indian" omitted by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 4 (w. e. f. 30th May, 1951).

⁵ Subs. *ibid.* s. 3(ii) (w. e. f. 30th May, 1951), for "Bombay".

absence from the district of the joint or assistant judge, the first in rank of the subordinate judges, shall assume charge of the district court without interruption to his ordinary jurisdiction, and while so in charge shall perform the duties of a district judge with respect to the filing of suits and appeals, receiving pleadings, execution of processes, return of writs and the like and shall be designated joint judge, assistant judge or subordinate 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.

Delegation
of powers
of district
judge.

39. Any district judge leaving the headquarters and proceeding on duty to any place within his district may delegate to a joint judge or an assistant judge, or in the absence of a joint judge or an assistant judge, to a subordinate judge at the headquarters, the power of performing such duties, enumerated in section 38 as may be emergent; and such officer shall be designated joint, assistant or subordinate judge, as the case may be, in charge of the headquarters.

Temporary
vacancy of
office of sub-
ordinate
judge.

40. In the event of the death, suspension or temporary absence of any subordinate judge, the district judge may empower the judge of any subordinate court of the same civil district to perform the duties of the judge of the vacated subordinate 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 distinct.

SUSPENSION AND REMOVAL OF SUBORDINATE JUDGES.

41. [*Suspension and removal.*] Omitted by the A. O., 1937.

OFFICIALS OF COURTS OTHER THAN THE CHIEF COURT.

42. [*Appointment and removal of court officials.*] Omitted by the A. O., 1937.

Supplemental.

Seal.

¹[43. Every Court shall use a circular seal two inches in diameter bearing round its circumference the title of the Court in English and Naskh script and in the centre a crescent moon with the horns pointing upwards surmounted by a star.]

Execution
of decree
for debt
against
certain
privileged
persons.

44. (1) No decree for payment of debt passed by any court shall, save as provided by sub-section (2), be executed against a defendant who is a member of any of the late reigning families of Sind and whose name is entered in a list published in this behalf by the ²[Provincial Government] in the ³[Official Gazette].

¹ Subs. by Sind II of 1955, s. 2, "(w. e. f. 1st August, 1955, for the original section 43. The existing seal will continue to be used until new seal is supplied to the court, vide s. 3 of Sind II of 1955.

² Subs. by the A. O., 1937, for G. in C."

³ Subs. *ibid*, for "B.G.G."

(2) Where application is made for the execution of such decree against such person, the court shall forward a copy of the decree and of the application to the ¹[Provincial Government], who may by special order direct that the decree shall be executed against such person and may specify the manner in which it may be executed.

45. [*Pending proceedings.*] *Rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 6, Sch. II.*

46. [*Enactments amended and repealed.*] *Rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 6, Sch. II.*

The First Schedule.

[Part I.] *Rep. by the Sind Courts (Supplementary) Act, 1926, Act XXXIV of 1926, s. 3.*

[Part II.] *Rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 6, Sch. II.*

The Second Schedule.

[Part I.] *Rep. by the Sind Courts (Supplementary) Act, 1926, Act XXXIV of 1926, s. 3.*

[Part II.] *Rep. by the Sind Laws (Adaptation, Revision, Repeal and Declaration) Ordinance, 1955 (Sind 5 of 1955), s. 6, Sch. II.*

¹ Subs. by the A. O., 1937, for "Commissioner in Sindh".