

# THE CONCILIATION COURTS ORDINANCE, 1961



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### THE CONCILIATION COURTS ORDINANCE, 1961.

<sup>1</sup>ORDINANCE NO. XLIV OF 1961

[28<sup>th</sup> 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.

l The Ordinance has been amended in its application to the Province of West Pakistan by West Pakistan Act 13 of 1963, s. 2 (with from the 15th July, 1963); and by West Pakistan

Ordinance XI of 1966, ss. 3, 15 and 16 (with effect from the 4th April, 1966). The Ordinance has been extended to the Tribal Areas of Quetta Division by West Pakistan Regulation No. I of 1964, s.2 (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This Ordinance has been repealed in its application to the Province of Punjab, by Punjab Act No. XXXIV of 1975, s. 233.

This Ordinance has been amended to the extent of Islamabad Capital Territory, see Ordinance No. XXVII of 1981, s. 5 and 4th Sch.

- (3) It shall come into force on such date<sup>1</sup> as the <sup>2</sup>[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;
    - [(c) "Controlling Authority" means <sup>4</sup>[an officer appointed by Government to be the Controlling Authority for purposes of this Ordinance.]

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- (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 1808);
- (e) "District Judge" shall include an Additional District Judge, a Subordinate Judge and a Civil Judge;
- (f) "Government" in relation to any local area in a Province, means the Provincial Government, and in relation to Cantonments, the <sup>2</sup>[Federal Government];

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- (f) "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.
- <sup>5</sup>[(ff) "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);]
- (g) "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;

<sup>&</sup>lt;sup>1</sup>The 1st day of March, 1962, see Gaz. of P., 1962, Ext., p. 234c.

<sup>&</sup>lt;sup>2</sup>Subs. by F.A.O., 1975, Art. 2 and Table, for "Central Government".

<sup>&</sup>lt;sup>3</sup>Subs. ibid., Art. 2 and Sch., for cl. (c).

<sup>&</sup>lt;sup>4</sup>Subs. by the Conciliation Courts (Amdt.) Ordinance, 1982 (18 of 1982), s. 2, for "the Deputy Commissioner".

<sup>&</sup>lt;sup>5</sup>Cl. (ff) ins. ibid.

- <sup>1</sup>[(h) "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;
- (j) "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) 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
  - **(b)** 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) cases in which the interest of a minor is involved;
  - (b) cases where provision for arbitration has been made in a contract between the parties;
  - (c) cases by or against the <sup>2</sup>[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.
  - <sup>3</sup>[(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.]

<sup>&</sup>lt;sup>1</sup>Subs. by the Conciliation Courts (Amdt.) Ordinance, 1982. (18 of 1982) s. 2 for cls (h) and (i).

<sup>&</sup>lt;sup>2</sup>Subs. by F.A.O., 1975, Art. 2 and Table, for "Central".

<sup>&</sup>lt;sup>3</sup>Subs. by the Ord (18 of 1982) s. 3, for sub-section (3).

- (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 <sup>1</sup>[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 <sup>1</sup>[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.

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- (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].
- **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[.]<sup>2</sup>

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(2) The Chairman of the Union Council <sup>4</sup>[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.

 $<sup>^{\</sup>it I}$  Ins by the Conciliation Courts (Amdt.) Ordinance, 1982 (18 of 1982) s. 4.

<sup>&</sup>lt;sup>2</sup>Subs. by the Law Reforms Ordinance, 1972 (12 of 1972), s. 2 and Sch. for colon.

<sup>&</sup>lt;sup>3</sup>Proviso omitted ibid.

<sup>&</sup>lt;sup>4</sup>Ins. by Ord.18 of 1982, s. 5.