



THE SMALL CLAIMS AND MINOR OFFENCE COURTS, ORDINANCE, 2002



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SCHEDULE

THE SMALL CLAIMS AND MINOR OFFENCES COURTS ORDINANCE, 2002

*ORDINANCE NO. XXVI OF 2002

[19th June, 2002]

An Ordinance to consolidate and enact the law relating to small claims and minor offences

WHEREAS it is expedient and necessary to consolidate and enact the law relating to small claims and minors offences and matters incidental thereto or connected therewith for providing inexpensive and expeditious disposal of such claims and offences;

AND WHEREAS, the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the Fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999, read with the Provisional Constitution (Amendment) Order No.9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance:-

1. Short title, extent and commencement.-(1) This Ordinance may be called the Small Claims and Minor Offences Courts Ordinance, 2002.

(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. Definition.-(1) In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "amicable settlement" includes settlement through arbitration process, other than arbitration under the Arbitration Act, 1940 (X of 1940), mediation, conciliation or any other lawful means mutually agreed upon by the parties;

(b) "award" means findings of a *Salis*;

* This Ordinance shall come into force w.e.f. 15-7-2004 vide S.R.O 601(I)/2004, dt. 15-7-2004.

- (c) "Court" means the Small Claims and Minor Offences Court established under section 4;
- (d) "Government" means the Provincial Government;
- (e) "prescribed" means prescribed by rules;
- (f) "rules" means rules made under section 42; and
- (g) "*Salis*" means the person acting as conciliator, mediator or arbitrator.

(2) Any expression not specifically mentioned or defined in this Ordinance shall have the same meaning as defined in the Code of Civil Procedure, 1908 (Act V of 1908), and shall have effect accordingly.

3. Ordinance to override other laws. The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.

4. Establishment of Courts.-(1) The Government, in consultation with the High Court, may establish one or more Small Claims and Minor Offences Courts in each district or at such other place or places as it may deem necessary.

(2) The Court shall be presided over by a Civil Judge-*cum*-Judicial Magistrate.

(3) The local limits of jurisdiction of the Court shall be such as the High Court may by, notification in the official Gazette, determine and define from time to time.

5. Jurisdiction.-(1) The Court shall have exclusive jurisdiction to:—

- (a) try all suits and claims arising therefrom, specified in Part I of the Schedule to this Ordinance, the subject-matter of which does not exceed one hundred thousand rupees in value for the purposes of jurisdiction:

Provided that the High Court may, by notification in the Official Gazette, vary such value from time to time; and

- (b) try offences specified in Part II of the Schedule to this Ordinance.

6. Procedure in civil trials. Proceedings under this Ordinance relating to claims or suits shall be conducted in the manner hereinafter provided, namely:-

- (i) Every claim or suit before the Court shall be instituted by presentation of a plaint duly verified on oath or solemn affirmation;

- (ii) the plaint shall contain all material facts relating to the claim or dispute, a schedule giving the number of witnesses intended to be produced in support of the plaint, the names and addresses of witnesses and a brief summary of the facts to which they would depose;
- (iii) where a plaintiff sues or relies upon a document in his possession or power, he shall produce it in the Court either in original or copy thereof alongwith the plaint;
- (iv) where a plaintiff relies on any other document, not in his possession or power as evidence in support of his claim, he shall enter such document in a list to be appended to the plaint, giving, reasons of relevancy to the claim in the plaint;
- (v) the plaint shall be accompanied by as many copies thereof including the schedule and the lists of documents referred to in clause (4) as there are defendants in the suit, for service upon the defendants, and
- (vi) the plaint shall be accompanied by one time process fee of twenty-five rupees.

7. Rejection of plaint.-(1) The plaint shall be rejected in the following cases:—

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is under-valued, and the plaintiff, on being required by the Court to correct the valuation within a time to be fixed by the Court, fails to do so;
- (c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp paper within a time to be fixed by the Court, fails to do so; and
- (d) where the suit appears from the statement in the plaint to be barred by any law.

(2) Where a plaint is rejected, the Judge shall record an order to that effect with reason for such order.

(3) The rejection of the plaint on any of the grounds hereinbefore mentioned shall not of its own force preclude the plaintiff from presenting a fresh plaint in respect of the same cause of action.

8. Process fee. The plaintiff shall, alongwith the plaint, pay one time process fee of twenty five rupees for service of summons upon the defendants and postal stamps of the value of registered post acknowledgement due and where the Court orders for substituted service, deposit the charges of such substituted service, within three days of making such order failing which the suit may be dismissed.