

**A
Bill**

*further to amend the West Pakistan Civil Courts
Ordinance, 1962.*

WHEREAS it is expedient further to amend the West Pakistan Civil Courts Ordinance, 1962 (W.P. Ordinance No. II of 1962), for the purposes hereinafter appearing;

It is hereby enacted by the Provincial Assembly of Khyber Pakhtunkhwa as follows:

1. Short title and commencement.---(1) This Act shall be called the West Pakistan Civil Courts (Amendment) Act, 2025.

(2) It shall come into force at once.

2. Substitution of section 7 of the W.P. Ordinance No. II of 1962.---In the West Pakistan Civil Courts Ordinance 1962 (W.P. Ordinance No. II of 1962), hereinafter referred to as the said Ordinance, for section 7, the following shall be substituted, namely:

“7. Original jurisdiction of District Judges in suits.---(1) Except as otherwise provided in any other enactment for the time being in force, the limit of pecuniary jurisdiction of a court of District Judge in original civil suits shall be the same as provided in section 6 of the Code of Civil Procedure, 1908 (Act No. V of 1908).”

3. Substitution of section 9 of the W.P. Ordinance No. II of 1962.--- In the said Ordinance, for section 9, the following shall be substituted, namely:

“9. Pecuniary limits of jurisdiction of Civil Judges.---The limit of pecuniary jurisdiction of a Civil Judge in original civil suits shall be the same as provided in section 6 of the Code of Civil Procedure, 1908 (Act No. V of 1908).”

4. Insertion of new section 12A in the W.P. Ordinance No. II of 1962.--- In the said Ordinance, after section 12, the following new section shall be inserted, namely:

“12A. Power to transfer cases to Special Courts or Tribunals.---(1) Notwithstanding anything contained in any other law for the time being in force, the High Court, under intimation to Government, may, if considers it expedient so to do in the interest of justice, transfer any case-

- (a) from a court of District Judge or Additional District Judge to a Special Court or Tribunal; or
- (b) from one Special Court or Tribunal to another Special Court or Tribunal.

(2) Upon transfer of a case under sub-section (1), any connected case or cases shall also stand transferred.

(3) A Special Court or Tribunal to which the case is transferred under sub-section (1), shall be deemed to be the court or Special Court or Tribunal, as the case may be, in which the case was originally instituted and shall have all the powers and jurisdiction of such court.

(4) A Special Court or Tribunal to which the case is transferred under sub-section (1), shall proceed with the case from the stage at which it was pending immediately before such transfer and it shall not be bound to recall and to rehear any witness who has given evidence and may act on the evidence already recorded.

Explanation: In this section the words "District Judge", "Additional District Judge", "Special Court" and "Tribunal", shall have the same meaning as have assigned to them respectively by this Ordinance, the Code of Civil Procedure, 1908 or any special law for the time being in force."

5. **Substitution of section 17 of the W.P. Ordinance No. II of 1962.**--- In the said Ordinance, for section 17, the following shall be substituted, namely:

"17. Appeals from District Judges and Additional District Judges.--- Save as otherwise expressly provided by any other enactment for the time being in force, an appeal from a decree or order of a District Judge or Additional District Judge, exercising original jurisdiction, shall lie to the High Court in accordance with the provisions of the Code of Civil Procedure, 1908 (Act No. V of 1908)."

6. **Amendment of section 18 of the W.P. Ordinance No. II of 1962.**---In the said Ordinance, in section 18,-

(a) for sub-section (1), the following shall be substituted, namely:

"(1) An appeal from a decree or order of a Civil Judge shall lie to the District Judge in accordance with the provisions of the Code of Civil Procedure, 1908 (Act No. V of 1908)."; and

(b) sub-section (1A), shall be deleted.

7. **Substitution of section 24 of the W.P. Ordinance No. II of 1962.**---In the said Ordinance, for section 24, the following shall be substituted, namely:

"24. Pecuniary jurisdiction of Civil Courts in cases against Government etc.---The pecuniary limit of jurisdiction of Civil Courts in any suit against the Government, shall be the same as provided in section 6 of the Code of Civil Procedure, 1908 (Act No. V of 1908)."

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STATEMENT OF OBJECTS AND REASONS

The Khyber Pakhtunkhwa Assembly has enacted the Khyber Pakhtunkhwa Code of Civil Procedure (Amendment) Act, 2020 vide which the provisions of the Code of Civil Procedure, 1908, have been amended to bring civil law reforms for the interest of litigants. Section 6 of the Code ibid as amended, fixes the pecuniary limit of jurisdiction for civil judges as fifty million and for district judges as above fifty million. Similarly, the second appeal under the Code ibid, has been done away with. However, after affecting amendments in the Code ibid, some of the provisions of the West Pakistan Civil Courts Ordinance, 1962, apparently have come into contradiction with the Code ibid, leading to a conflict between the two enactments which needs to be rectified so as to ensure smooth functioning of the civil courts. In these circumstances the provisions of the Ordinance ibid are required to be suitably amended so as to align its provisions with Code ibid.

Furthermore, the provisions of section 24 of the Ordinance ibid provides that the pecuniary jurisdiction of civil courts in suits against the Government will be unlimited which is apparently contradictory to section 6 of the Code of Civil Procedure, 1908. The provisions of section 24 further provides that suits against the Government or its functionaries shall always be instituted in the court of civil judge and shall be heard at the headquarters of the District. This provision, requiring the hearing of suits against Government at the headquarters of the District concerned, causes inconvenience to the litigants particularly in far-flung Districts where ways of communication are meagre. In these remote Districts the litigants have to travel from their respective sub-divisions all the way to the District headquarters for hearing of cases against the Government causing inconvenience, loss of time and money to the litigants. Clause (d) of Article 37 of the Constitution of the Islamic Republic of Pakistan provides that the state shall ensure inexpensive and expeditious justice to the citizens of Pakistan.

In the context of the above mentioned constitutional provision as well as the inconvenience, loss of time and money of the bonafide litigants as a result of the requirements of section 24 of the Ordinance ibid, making it mandatory that cases against the Government shall be heard at the headquarters of the Districts, it is necessary and expedient in the best interest of the litigants as well as the public that the above condition may be disbanded.

The Bill seeks to achieve the above mentioned objectives.

Peshawar,
dated the: 23/01/2025


MINISTER-IN-CHARGE

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Provincial Minister for Law,
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