

**THE CODE OF CIVIL PROCEDURE (PUNJAB AMENDMENT) ACT
2018 (Act XIV of 2018)
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**[1] THE CODE OF CIVIL PROCEDURE (PUNJAB AMENDMENT) ACT
2018 (Act XIV of 2018)
[20 March 2018]**

An Act further to amend the Code of Civil Procedure, 1908.

It is necessary further to amend the Code of Civil Procedure, 1908 (V of 1908) for purposes of updating certain provisions of the Code.

Be it enacted by Provincial Assembly of the Punjab as follows:

1. Short title and commencement. - (1) This Act may be cited as the Code of Civil Procedure (Punjab Amendment) Act 2018.
(2) It shall come into force at once.
2. Amendment in section 3 of Act V of 1908.- In the Code of Civil Procedure, 1908 (V of 1908), for brevity referred to as the Act, in section 3, for the words “Court of Small Causes”, the words “Court of Small Claims and Minor Offences” shall be substituted.
3. Omission of section 7 of Act V of 1908.- In the Act, section 7 shall be omitted.
4. Amendment in section 9 of Act V of 1908.- In the Act, in section 9, after the words “impliedly barred”, the words “or for which a general or a special law is in force” shall be inserted.

5. Amendment in section 12 of Act V of 1908.- In the Act, in section 12, after subsection (2), the following new subsection (3) shall be inserted:

“(3) For purposes of the disposal of an application under subsection (2), the Court may, in the interest of expeditious disposal, apply such fair procedure as the circumstances of the case warrant, and shall, unless, for reasons to be recorded it directs otherwise, order any fact to be proved or disproved by affidavit.”.

6. Amendment in section 24 of Act V of 1908.- In the Act, in section 24, subsection (4) shall be omitted.

7. Amendment in section 30 of Act V of 1908.- In the Act, in section 30, for clause (c), the following shall be substituted:

“(c) order any fact to be proved or disproved by affidavit.”.

8. Substitution of section 33 of Act V of 1908.- In the Act, for section 33, the following shall be substituted:

“33. Judgment and decree. - The Court, after the case has been heard, shall pronounce judgment maximum within fifteen days and on such judgment a decree shall follow simultaneously.”.

9. Amendment in section 35 of Act V of 1908.- In the Act, in section 35, for subsection (1), the following shall be substituted:

“(1) Subject to such conditions and limitations, as may be prescribed, and to the provisions of law for the time being in force, the costs of an incident to all suits and other proceedings in the suit including execution proceedings, shall follow the event, and the Court shall have full power to determine by whom or out of which property and to what extent such costs are to be paid, and to give all necessary directions for the purpose aforesaid.

(1a) The fact that the Court has no jurisdiction to try the suit shall be no bar to exercising the powers under subsection (1).”.

10. Amendment in section 35-A of Act V of 1908.- In the Act, in section 35-A, in subsection (2):

(a) for the words “twenty-five thousand”, the words “one hundred thousand” shall be substituted;

(b) first proviso shall be omitted; and

(c) in the second proviso, the expression “, further,” shall be omitted.

11. Substitution of section 44-A of Act V of 1908.- In the Act, in section 44-A, the following shall be substituted:

“44-A. Execution of decrees passed by Courts in the reciprocating territory. - (1) Where a certified copy of a decree of any of the Superior Courts of the reciprocating territory has been filed in a District Court, the decree may be executed in Pakistan as if it had been passed by the District Court.

(2) Together with the certified copy of the decree shall be filed a certificate from such superior Court stating the extent, if any, to which the decree has been satisfied or adjusted and such certificate shall, for the purposes of proceedings under this section, be conclusive proof of the extent of such satisfaction or adjustment.

(3) The provisions of section 47 shall as from the filing of the certified copy of the decree apply to the proceedings of a District Court executing a decree under this section, and the

District Court shall refuse execution of any such decree, if it is shown to the satisfaction of the Court that the decree falls within any of the exceptions specified in clauses (a) to (f) of section 13.

Explanation 1. "Reciprocating territory" means such country or territory as the Federal Government may, from time to time, by notification in the official Gazette, declare to be reciprocating territory for the purposes of this section; and "superior Courts", with reference to any such territory, means such Courts as may be specified in the said notification.

Explanation 2. "Decree", with reference to a superior Court, means any decree or judgment of such Court under which a sum of money is payable, not being a sum payable in respect of taxes or other charges of a like nature or in respect of a fine or other penalty, and does not include an arbitration award, even if such award is enforceable as a decree or judgment."

12. Amendment in section 91 of Act V of 1908.- (1) In the Act, in section 91, in subsection (1), for the expression "having obtained the consent in writing of the Advocate General", the expression "with the leave of the Court" shall be substituted.

13. Amendment in section 92 of Act V of 1908.- (1) In the Act, in section 92:
 (a) in subsection (1), for the expression "and having obtained the consent in writing of the Advocate General", the expression "with the leave of the Court" shall be substituted; and
 (b) for subsection (2), the following shall be substituted:
 "(2) No suit claiming any of the reliefs specified in subsection (1) shall be instituted in respect of any such trust as is therein referred to, except in conformity with the provisions of that subsection."

14. Substitution of section 95 of Act V of 1908.- In the Act, for section 95, the following shall be substituted:

"95. Compensation for obtaining arrest, attachment or injunction on insufficient grounds. - (1) Where, in any suit in which an arrest or attachment has been effected or a temporary injunction is granted under the last preceding section, it appears to the Court that:
 (a) such arrest, attachment or injunction was applied for insufficient grounds; or
 (b) there was no reasonable or probable ground for making the application -
 the Court may, on its own motion or on the application of the aggrieved party, award such punitive compensation as it deems reasonable to the aggrieved party for the expense and injury caused to him.
 (2) In addition to the compensation awardable under subsection (1), the Court may also make an order directing the party at fault to deposit such amount in the public exchequer as the Court deems just, as penalty for abusing the process of the law and wasting the time of the Court.
 (3) An order under this section shall bar any suit for compensation in respect of such arrest, attachment or injunction."

15. Amendment in section 97 of Act V of 1908.- In the Act, in section 97, the words "passed after the commencement of this Code" shall be omitted.

16. Substitution of section 102 of Act V of 1908.- In the Act, for section 102, the following shall be substituted:

"102. No second appeal in certain cases. - No second appeal shall lie in any suit when the amount or value of the subject matter of the original suit does not exceed rupees twenty-five million."

17. Amendment in section 104 of Act V of 1908.- In the Act, in section 104, after clause (ff), the following new clause (fff) shall be inserted:

“(fff) an order under section 91 or section 92 refusing leave to institute a suit;”.

18. Amendment in section 114 of Act V of 1908.- In the Act, in section 114, for subsection (1), the following shall be substituted:

“(1) Subject as aforesaid, any person considering himself aggrieved:

(a) by a decree or order from which an appeal is allowed by this Code but from which no appeal has been preferred; or

(b) by a decree or order from which no appeal is allowed by this Code - may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.”.

19. Amendment in section 115 of Act V of 1908.- In the Act, in section 115:

(a) in subsection (1), for the second proviso, the following shall be substituted:

“Provided further that the subordinate court shall provide copies of the documents to a person within three days of the decision, and the High Court shall dispose of such application within six months;”;

(b) after subsection (4), the following new subsection (5) shall be inserted:

“(5) No proceedings in revision shall be entertained by the High Court against an order passed by the District Court under section 104.”.

20. Amendment in section 151 of Act V of 1908.- In the Act, in section 151, after the word “Court” occurring for the first time, the expression “, to be exercised after recording reasons in writing,” shall be inserted.

[1] This Act, which amended the Code of Civil Procedure, 1908 (V of 1908); was passed by the Punjab Assembly on 14 March 2018; assented to by the Governor of the Punjab on 19 March 2018; and, was published in the Punjab Gazette (Extraordinary), dated 20 March 2018, pages 6695-98.

**THE CODE OF CIVIL PROCEDURE (PUNJAB AMENDMENT) ORDINANCE 2020
(VIII of 2020)**

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TEXT

[1] **THE CODE OF CIVIL PROCEDURE (PUNJAB AMENDMENT) ORDINANCE
2020
(VIII of 2020)
[29th April, 2020]**

An Ordinance to amend the Code of Civil Procedure, 1908.

It is expedient to amend the Code of Civil Procedure, 1908 (V of 1908) to bring procedural reforms for smooth and swift dispensation of justice; for reduction of backlog of civil cases; and for the matters ancillary thereto.

Provincial Assembly of the Punjab is not in session, and Governor of the Punjab is satisfied that circumstances exist which render it necessary to take immediate action.

In exercise of the powers conferred under clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, Governor of the Punjab is pleased to make and promulgate the following Ordinance:

1. Short title and commencement. – (1) This Ordinance may be cited as the Code of Civil Procedure (Punjab Amendment) Ordinance 2020.
(2) It shall come into force at once except the provisions for electronic maintenance of records and proceedings which shall come into force on such date as the Government may by notification in the official Gazette appoint.
2. Substitution of section 3 of Act V of 1908.- In the Code of Civil Procedure, 1908 (V of 1908), for brevity referred to as ‘the Act’, for section 3, the following shall be substituted:
“3. Hierarchy of Courts. - For purposes of this Code, the hierarchy of Civil Courts shall be the same as provided in the Punjab Civil Courts Ordinance, 1962 (II of 1962).”.
3. Substitution of section 26 of Act V of 1908.- In the Act, for section 26, the following shall be substituted:
“26. Institution of suits through plaint. - (1) Every suit shall be instituted by presentation of a plaint in such manner as may be prescribed.
(2) The plaintiff shall file as many copies of the plaint and accompanying documents with the plaint as there are defendants to the suit, to be sent along with the summons.
(3) It shall be duty of the Court to maintain electronic records of the proceedings in suits in such manner as may be prescribed.

Explanation. For purposes of this subsection, the word “suits” includes any proceeding in applications, appeals, reviews, revisions or anything incidental thereto.

26A. Written statement. - (1) The defendant shall file written statement not later than thirty days from the date of his first appearance in the Court.

(2) The defendant shall provide additional copies of written statement and of the documents annexed therewith for each of the parties and for the Court.

(3) If the defendant fails to file the written statement within the time frame provided under subsection (1), the Court shall close the right to defend the case.

26B. Framing of issues, filing of list of witnesses, recording of evidence and hearing of final arguments. - (1) The Court shall, within seven days of filing of the written statement, frame issues.

(2) The parties may, within seven days of framing of the issues, raise objections on such issues, and shall provide a list of witnesses and certificate of readiness for production of evidence.

(3) Upon framing of the issues, filing of the list of witnesses and certificate of readiness for production of evidence, the Court may itself record the evidence or may direct a Commission to record the evidence in the prescribed manner.

(4) For purposes of subsection (3), the Court shall appoint a Commission from a list of approved panel, comprising of advocates and retired judges, maintained by the District Judge concerned, on payment of such fee and terms and conditions as may be determined by the Court.

(5) The Court or the Commission, as the case may be, shall complete recording of evidence and proceedings in writing and through audio and video recording within ninety days of fulfilment of the requirements contained in subsection (3).

(6) The Court, upon completion of evidence of the parties, shall complete the hearing of final arguments of the parties within twenty days:

Provided that the parties may file written arguments in the Court within the time frame under this subsection.”.

4. Insertion of section 27A in Act V of 1908.- In the Act, after section 27, the following section 27A shall be inserted:

“27A. Process of summons. - (1) The summons shall be issued simultaneously, unless otherwise ordered by the Court, to the defendant, by registered post acknowledgment due and another copy of the summons by courier service signed and sealed in such manner as may be prescribed, or as the Court may determine, by urgent mail service of Pakistan Post, at the expense of the plaintiff.

(2) The Court shall order simultaneous service by-

(a) affixing a copy of the summons at some conspicuous part of the house in which the defendant is known to have last resided or carried on business or personally worked for gain;

(b) any modern device including electronic device of communication which may include mobile, telephone, telegram, phonogram, telex, fax, radio, television etc. in the prescribed manner;

(c) urgent mail service or public courier services;

(d) publication in the press in the prescribed manner; and

(g) any other manner or mode as it may deem fit.

(3) Location of the process server serving the summons shall be monitored by modern devices in the prescribed manner, and the process server shall take photograph of the defendant or the premises or the person accepting service of summons on behalf of the defendant, which shall be made part of the record as a proof of service of the process.”.

5. Substitution of section 96 of Act V of 1908.- In the Act, in section 96, in subsection (1), for the full stop at the end, the expression “, and the Court shall decide the appeal within sixty days from the date of first appearance of the respondent in appeal.” shall be substituted.

6. Amendment of section 106 of Act V of 1908.- In the Act, for section 106, the following shall be substituted:

“106. What Courts to hear appeals. -

(1) Where an appeal from any order is allowed, it shall lie to the Court to which an appeal would lie from the decree in the suit in which such order was made, or where such order is made by a Court not being the High Court in exercise of appellate jurisdiction, then to the High Court.

(2) A Court shall decide an appeal under subsection (1) within thirty days of the first appearance of the respondent.”.

7. Amendment of section 115 of Act V of 1908.- In the Act, in section 115:

(a) in subsection (1), in the second proviso, for the word “six”, the word “three” shall be substituted;

(b) in subsection (2), for the full stop at the end, the expression “, and the District Court shall decide the application within two months from the date of first appearance of the respondent.” shall be substituted.

8. Amendment of section 128 of Act V of 1908.- In the Act, in section 128, in subsection (2):

(a) in clause (i), the word “and” appearing after the semicolon shall be omitted;

(b) in clause (j), for the full stop at the end, the expression “; and” shall be substituted;

(c) after clause (j), the following new clause (k) shall be added

“(k) case management.”.

9. Substitution of section 141 of Act V of 1908.- In the Act, for section 141, the following shall be substituted:

“141. Proceedings regarding interlocutory applications. -

(1) The Court hearing a suit shall concurrently hear the interlocutory applications filed in the suit according to such timelines and in such manner as may be prescribed.

(2) The filing of any application under subsection (1), including an application for the rejection of the plaint or dismissal of a suit, shall be no ground to halt the proceedings in the suit or to dispense with or waive the requirement of filing a written statement within the timelines as provided in this Code.”.

10. Insertion of section 159 in Act V of 1908.- In the Act, after section 158, the following section 159 shall be inserted:

“159. Savings of proceedings. - All proceedings instituted prior to coming into force of this Ordinance shall be dealt in accordance with the provisions of the Act which existed prior to coming into force of this Ordinance.

Explanation. In this section, the expression “proceedings” includes suits, appeals, reviews, revisions, execution applications and anything incidental thereto.”

ⁱ [1] This Act, which amended the Code of Civil Procedure, 1908 (V of 1908); was passed by the Punjab Assembly on 29th April 2020; assented to by the Governor of the Punjab on 29th April 2020; and, was published in the Punjab Gazette (Extraordinary), dated 29 April 2020, pages 3977-80.