

ACT No. XVI OF 1868.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 24th April 1868).

An Act to consolidate and amend the law relating to Principal Sadr Amíns, Sadr Amíns and Munsifs in Bengal, and for other purposes.

WHEREAS it is expedient to consolidate and amend the law relating to Principal Sadr Amíns and Munsifs in the territories respectively under the Governments of the Lieutenant Governor of the Lower Provinces and of the Lieutenant Governor of the North-Western Provinces, of the Presidency of Fort William in Bengal, and to abolish the office of Sadr Amín, and to alter the designation of the officers now styled Principal Sadr Amíns; and whereas it is also expedient to provide for the investment of Subordinate Judges and Munsifs in such territories with the jurisdiction of Judges of Courts of Small Causes beyond the local limits of the ordinary original civil jurisdictions of the High Courts of Judicature; It is hereby enacted as follows:—

PRELIMINARY.

1. The Regulations and Acts mentioned in the schedule to this Act are hereby repealed to the extent specified in the third column of the same schedule.

2. In this Act—

“Local Government” means the Lieutenant Governor of the Lower Provinces, or the Lieutenant Governor of the North-Western Provinces, of the said Presidency, as the case may be;

“High Court” means the High Court of Judicature at Fort William, or the High Court of Judicature of the North-Western Provinces of the said Presidency, as the case may be; and

“District

“ District Judge.”

“ District Judge” means the Judge of a principal civil court of original jurisdiction.

3. This Act extends only to the territories for the time being respectively under the Governments of the Lieutenant Governor of the Lower Provinces and the Lieutenant Governor of the North-Western Provinces of the said Presidency.

Extent of Act.

SUBORDINATE JUDGES AND MUNSIFS.

4. The present Principal Sadr Amíns shall be the first Subordinate Judges, and (subject to any alteration of the limits of their local jurisdiction which may be made by the Local Government) shall severally exercise the jurisdiction of Subordinate Judges under this Act within the local limits within which, immediately before the passing of this Act, they respectively exercised the jurisdiction of Principal Sadr Amíns.

The present Sadr Amíns and Munsifs shall be the first Munsifs, and (subject to any alteration of the limits of their local jurisdiction which may be made by the Local Government) shall severally exercise the jurisdiction of Munsifs under this Act within the local limits within which, immediately before the passing of this Act, they respectively exercised the jurisdiction of Munsifs.

First Munsifs.

Appointment of Subordinate Judges and Munsifs.

5. Whenever the office of a Subordinate Judge under this Act is vacant, the Local Government may appoint to the office such person as it thinks proper.

Whenever the office of a Munsif under this Act is vacant, the High Court shall nominate such person as it thinks fit to fill such office, and the Local Government shall appoint him accordingly.

It shall be lawful for the Local Government, with the sanction of the Governor General of India in Council, to make rules as to the qualifications of persons to be nominated Munsifs under this Act, and from time to time to alter and add to the rules so made.

When such rules shall have been made, no person, notwithstanding anything hereinbefore contained, shall be nominated to the office of Munsif, unless he possesses the qualifications prescribed by the said rules.

Acting

Acting Appointments.

6. Any District Judge, on the occurrence within his jurisdiction of any vacancy in the office of Munsif, may, pending the orders of the High Court thereon, appoint such person as he thinks fit to act in such office. And he shall forthwith report to the High Court the occurrence of every such vacancy and of every such appointment.

District Judge's power to make acting appointment to office of Munsif.

Declaration.

7. Every person hereafter appointed under this Act shall, on his first appointment, and previously to entering on the duties of his office, subscribe, before the District Judge to whose control he is subject, the following declaration :—

Declaration.

“I, *A. B.*, appointed Subordinate Judge [*or* Munsif] of _____, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment.”

8. Every Subordinate Judge and Munsif under this Act shall be deemed to be a Civil Court within the meaning of the Code of Civil Procedure and of this Act.

Subordinate Judges and Munsifs to be Civil Courts.

Ministerial Officers.

9. All ministerial officers of the Courts of Subordinate Judges and Munsifs shall be nominated and appointed by those Courts respectively, subject to the approval of the District Judge within whose jurisdiction such Courts are situate.

Appointment of ministerial officers.

Every such Court may, by order, fine, suspend or dismiss any of its ministerial officers who is guilty of any misconduct or neglect in the performance of the duties of his office. But every such order shall be subject to appeal to the District Judge; and the rules for the time being applicable to appeals to the Court of Session from orders of the Criminal Courts subordinate thereto shall apply to all appeals under this section.

Nothing in this section shall exempt the offender from any penal or other consequences to which he may be liable under any other law in force for the time being.

Suspension

Suspension of Subordinate Judges and Munsifs.

Suspension by High
Court or District
Judge.

10. The High Court may, whenever it sees urgent necessity for so doing, suspend any Subordinate Judge under its control.

Whenever the High Court suspends any such Subordinate Judge, it shall forthwith report to the Local Government the circumstances of such suspension, and the Local Government may direct him to be removed from his office, or make such other order as the case may require.

Any District Judge may, whenever he sees urgent necessity for so doing, suspend any Munsif under his control.

Whenever the District Judge suspends any such Munsif, he shall forthwith send to the High Court a full report of the case with the evidence, and the High Court shall make such order in the matter as it thinks fit.

The High Court may at any time by order remove from his office or suspend any Munsif subject to its control.

JURISDICTION.

Local Limits of Jurisdiction.

Local limits of jurisdiction.

11. The Local Government may define and from time to time vary the local limits of the jurisdictions of Subordinate Judges and Munsifs.

Pending Proceedings.

12. Every Court under this Act shall have the same jurisdiction over all proceedings pending in the Court for which it shall have been substituted, as the Principal Sadr Amín, Sadr Amín or Munsif (as the case may be) of such Court would have had if this Act had not been passed :

Provided that every Munsif exercising jurisdiction under this Act within the local limits of a Sadr Munsif shall have jurisdiction over all proceedings pending in the Court of the Sadr Amín immediately before the passing of this Act.

Extent

Extent of Jurisdiction.

(a.)—*Munsifs.*

13. Munsifs are empowered to try all original suits cognizable by the Civil Courts of which the subject-matter does not exceed in amount or value rupees one thousand.

Jurisdiction of Munsifs.

14. In all such suits in which an appeal is, for the time being, allowed by law, an appeal shall lie from the decision of the Munsif to the District Judge to whose control he is subject.

Appeals to District Judge from Munsifs.

(b.)—*Subordinate Judges.*

15. Subordinate Judges are empowered to try all original suits cognizable by the Civil Courts of which the subject-matter exceeds in amount or value rupees one thousand, and (if the District Judge shall have referred them under the Code of Civil Procedure) suits of which the subject-matter is of any less amount or value.

Original jurisdiction of Subordinate Judges.

16. The Local Government may invest any Subordinate Judge with the powers of a Munsif under section thirteen, and may define and from time to time vary the local limits within which such powers are to be exercised.

Power to invest Subordinate Judges with Munsifs' powers.

17. Every District Judge may from time to time, subject to the orders of the High Court, refer to any Subordinate Judge under his control any appeals pending before him from decisions passed by Munsifs under section thirteen; and such Subordinate Judge shall hear and dispose of such appeals accordingly.

Appellate jurisdiction of Subordinate Judges.

18. In suits decided by any Subordinate Judge in the exercise of his original jurisdiction, of which the amount or value of the subject-matter does not exceed rupees five thousand, an appeal shall lie to the District Judge to whose control such Subordinate Judge is subject.

Appeals to District Judge from Subordinate Judges.

In all other suits decided by any Subordinate Judge, whether in the exercise of his original or appellate jurisdiction, the appeal from the decision of such Judge shall be direct to the High Court.

Appeals to High Court from Subordinate Judges.

19. The

19. The High Court may from time to time by order authorize the Judge of any District Court to transfer to a Subordinate Judge or Munsif subject to the control of such District Court any civil proceedings (not being suits), or any class of such proceedings, specified in such order and which may be then pending, or may be thereafter instituted, in such District Court.

High Court may order District Judge to transfer to a Subordinate Judge or Munsif certain civil proceedings.

All proceedings so transferred shall be disposed of by the Subordinate Judge or Munsif (as the case may be) according to the rules prescribed for the guidance of District Judges in the like cases :

Provided that an appeal from the order of the Subordinate Judge or Munsif in such cases shall lie to the District Judge, and a special appeal from his order thereon shall lie to the High Court, if an appeal from the decision of the Judge in such proceedings is allowed by the law in force for the time being.

(c.)—*Small Cause Court Powers.*

20. The Local Government may invest, within such local limits as it shall from time to time appoint, any Subordinate Judge with the jurisdiction of a Judge of a Court of Small Causes, for the trial of suits cognizable by such Courts, up to the amount of rupees five hundred, and any Munsif with the same jurisdiction up to the amount of rupees fifty, and may, whenever it thinks fit, withdraw such jurisdiction from the Subordinate Judge or Munsif so invested.

Power to invest Subordinate Judge or Munsif with powers of Small Cause Court Judge.

21. Section 51 of Act No. XI of 1865 (*to consolidate and amend the law relating to Courts of Small Causes beyond the local limits of the ordinary original civil jurisdiction of the High Courts of Judicature*) shall be read as if, for the words "Principal Sudder Ameen," the words "Subordinate Judge" were substituted.

Power to invest Small Cause Court Judge with powers of Subordinate Judge.

SCHEDULE.

14 } 20 - 1874
74 }
1874 } 1857

SCHEDULE.

NUMBER OF REGULATION OR ACT.	TITLE OR SUBJECT.	EXTENT OF REPEAL.
Bengal Regulation XXIII of 1814.	A Regulation for reducing into one Regulation, with Amendments and Modifications, the several Rules which have been passed regarding the Office of Moonsiffs or Native Commissioners, and of Sudder Aumeens or Head Commissioners; for modifying and extending their respective Powers in the Trial and Decision of Civil Suits; and for authorizing them to discharge certain additional Duties under the Direction of the Zillah and City Judges.	So much as has not been repealed.
Bengal Regulation XVIII of 1817.	A Regulation to modify the Rules in Force which prescribe an oath of Office to be taken by certain Native Officers; and to explain and amend other Provisions relative to the Native Ministerial Officers and Law Officers of the Civil and Criminal Courts.	So far as relates to Principal Sadr Amíns, Sadr Amíns and Munsifs.
Bengal Regulation V of 1831.	A Regulation for extending the Powers of Moonsiffs and Sudder Aumeens in the Trial of Civil Suits, and for authorizing the Appointment of Principal Sudder Aumeens at the Zillah and City Stations; for modifying the Powers and Duties of the Zillah, City, and Provincial Courts in connection with those Arrangements; and for enlarging the Sphere of Selection with regard to the Offices of Moonsiff and Vakeel.	So much as has not been repealed.
Bengal Regulation VII of 1832.	A Regulation for modifying certain of the Provisions of Regulation V. 1831, and for providing Supplementary Rules to that Enactment.	The whole Regulation, except so much of section 8 as provides that the rule contained in section XV, Regulation IV. 1793, and the corresponding enactment contained in clause first, section XVI, Regulation III. 1803, shall be the rule of guidance in all suits regarding succession, inheritance, marriage and caste, and all religious usages and institutions, that may arise between persons professing the Hindoo and Mahomedan persuasions respectively.
Act No. VIII of 1836.	Bengal judiciary system	The whole.
Act No. XXV of 1837.	Bengal judiciary system	So much as has not been repealed.
Act No. XXXVII of 1850.	For regulating Inquiries into the Behaviour of Public Servants.	Section 24.