

THE PANJÁB COURTS' ACT, 1877.

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SCHEDULE.

ACT No. XVII OF 1877.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 17th October 1877.)

An Act to consolidate and amend the law relating
to Courts in the Panjáb.

WHEREAS it is expedient to consolidate and amend the law relating to the Courts in the Panjáb; and whereas the Secretary of State for India in Council has given his previous sanction to the passing of this Act; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

1. This Act may be called "The Panjáb Courts' Act, 1877 :"

Short title.

It extends to all the territories for the time being under the administration of the Lieutenant-Governor of the Panjáb;

Local extent.

And it shall come into force on the passing thereof.

Commencement.

2. The Acts mentioned in the schedule hereto annexed are repealed.

Repeal of Acts.

But all Courts constituted, appointments made, rules and forms prescribed, orders, directions and licenses issued and powers conferred under any of the said Acts, shall, as far as may be, be deemed to have been respectively constituted, made, prescribed, issued and conferred under this Act.

3. In this Act, unless there be something repugnant in the subject or context, "Assistant Commissioner" includes Extra Assistant Commissioner, and "Tahsildár" includes Munsif.

Interpretation-clause.

CHAPTER

CHAPTER II.

OF THE CONSTITUTION OF THE COURTS.

Grades of
Courts.

4. Besides the Courts established under any other enactment for the time being in force, there shall be eight grades of Courts (namely) :—

- (1) the Chief Court ;
- (2) the Court of the Commissioner ;
- (3) the Court of the Deputy Commissioner ;
- (4) the Court of the Assistant Commissioner with full powers ;
- (5) the Court of the Assistant Commissioner with special powers ;
- (6) the Court of the Assistant Commissioner with ordinary powers ;
- (7) the Court of the Tahsildár with special powers ; and
- (8) the Court of the Tahsildár with ordinary powers.

Constitution
of Chief
Court and
appointment
and tenure of
Judges.

5. The Chief Court shall consist of three or more Judges, who shall be appointed by the Governor General in Council, and shall hold their offices during his pleasure, and of whom one at least shall always be a barrister of not less than five years' standing.

Rank and
precedence of
Judges of
Chief Court.

6. The Judges of the Chief Court shall have rank and precedence according to the seniority of their appointments as such Judges :

Provided that a Judge permanently appointed shall be deemed senior to an officiating Judge.

Certain
powers to be
exercised *ex
officio*.

7. Every person appointed by the Local Government to be or to act as a Commissioner, Deputy Commissioner, Assistant Commissioner or Tahsildár shall, in the division, district or tahsíl to which he may from time to time be posted, have the powers of a Court of a Commissioner, a Deputy Commissioner, an Assistant Commissioner with ordinary powers, or a Tahsildár with ordinary powers, as the case may be.

Assistant
Commis-
sioner or

8. The Local Government may from time to time confer upon any Assistant Commissioner the powers

of

of an Assistant Commissioner with full powers, or of an Assistant Commissioner with special powers, or upon any Tahsildár the powers of a Tahsildár with special powers, and may withdraw any powers so conferred.

Tahsildár may be invested with higher powers.

Any Assistant Commissioner or Tahsildár invested with powers under this section may exercise such powers in any district or tahsíl, as the case may be, to which he may from time to time be posted.

9. The Local Government may from time to time confer upon any person all or any of the powers of a Court of any of the seven grades last mentioned in section four, and may withdraw any powers so conferred.

Any person may be invested with certain powers.

10. The Local Government may direct that any three persons invested with powers of the same description under section nine, shall exercise such powers sitting together as a bench and not otherwise.

Exercise of such powers by benches.

When such persons sit together as a bench, the decision of the majority of them shall be deemed to be the decision of the bench.

11. Except for the purposes of exercising control over any other Court, any person or any bench exercising the powers of a Court of any grade under section nine or section ten shall be deemed to be a Court of such grade for all the purposes of this Act.

Persons and benches exercising such powers to be deemed Courts of corresponding grades.

12. Any person or bench invested under section eight, nine or ten with the powers of a Court of any grade, shall exercise such powers and discharge the functions of such Court within such local limits, and in such classes of cases, as the Local Government may from time to time direct.

Such powers where and in what cases to be exercised.

13. The Local Government may from time to time, by notification in the official Gazette, fix the local limits of the jurisdiction of any Court of any of the seven grades last mentioned in section four.

Power to alter local limits of jurisdiction.

CHAPTER III.
OF THE JURISDICTION AND POWERS OF THE CHIEF COURT.

Civil appeals from subordinate Courts.

14. The Chief Court shall be deemed, for the purposes of all enactments for the time being in force, to be the highest Civil Court of appeal in the territories to which this Act extends.

Criminal appellate and revisional jurisdiction. Power to try European British subjects.

15. The Chief Court shall be the highest Court of criminal appeal or revision in the said territories, and shall have power, as a Court of original jurisdiction, to try European British subjects committed to it for trial.

Power to withdraw and try or to transfersuits.

16. The Chief Court may, either of its own motion or on the application of any of the parties, after giving notice to the parties and hearing such of them as desire to be heard, withdraw any suit or other civil proceeding instituted in any Court under its superintendence or control, and try or dispose of such suit or proceeding itself, or transfer the same for trial or disposal to any other Court under its superintendence or control and competent to try or dispose of such suit or proceeding in respect of its nature and the amount or value of its subject-matter.

Appeals from original jurisdiction of Chief Court.

17. Except as otherwise provided by any law for the time being in force, an appeal shall lie from any decree or order passed or made by the Chief Court—

(a) in exercise of the original jurisdiction conferred by section sixteen; or

(b) in exercise of any other original jurisdiction of a civil nature to which the Chief Court may by rule extend this section :

Provided that such appeal shall lie only in the cases and in manner following (that is to say) :—

(c) when such decree or order is made by a single Judge, an appeal shall lie, either to a bench consisting of two other Judges, or to the full bench, as the Court may, by general rule or special order from time to time, direct ;

(d) when

(d) when such decree or order is made by a bench of Judges not being the full bench, and such Judges differ in opinion, the appeal shall lie from such decree or order to the full bench.

18. In the Indian Limitation Act, 1877, Schedule II, Nos. 151 and 162, after the word "Bombay," the following words shall be inserted (namely): "or the Chief Court of the Panjáb."

Limitation of such appeals.

19. Except as herein or by any other enactment for the time being in force otherwise provided, the Chief Court may make rules to provide in such manner as it thinks fit for the exercise by one or more of its Judges of any powers conferred on it by this Act, or by any other enactment for the time being in force:

Delegation of powers to its members.

Provided that no decree, order, sentence or decision of any Court shall be reversed by any Judge of the Chief Court sitting alone.

Proviso.

20. When there is a difference of opinion among the Judges composing any bench of the Chief Court on any question arising before such Judges in the exercise by them of any powers conferred on such Court by this Act, or by any other enactment for the time being in force, such question shall, except as otherwise provided by any enactment for the time being in force, be decided as follows, that is to say:—

Rule of decision when Judges differ.

If the number of such Judges concurring in one opinion upon such question is larger than the number holding any other opinion upon such question, the decision shall be in accordance with the opinion of such larger number.

If the numbers of such Judges holding two or more opinions on such question are equal, the following rules shall be observed, that is to say:—

(a) if such bench is the full bench, or is exercising any original jurisdiction to which section seventeen applies or is extended, the decision upon such question shall be in accordance with such one of these opinions as is held by the Judge who has precedence under section six;

(b) in

(b) in other cases the bench before which such question has arisen shall refer the same to the full bench, and the full bench shall decide the same in accordance with the rules hereinbefore contained, and the case in which such question has arisen shall be disposed of by the bench referring such question in accordance with the decision of the full bench thereon.

Power to refer question to full bench.

21. Any single Judge of the Chief Court or any bench of Judges of such Court (not being the full bench) exercising any powers conferred on the Chief Court by this Act or by any other enactment for the time being in force, may refer for the decision of the full bench any question of law or custom having the force of law, or the construction of any document, or the admissibility of any evidence, arising before such Judge or bench of Judges.

Any Judge or bench making a reference on any question in any case under this section, shall dispose of such case in accordance with the decision of the full bench on such question.

Power to appoint ministerial officers.

22. The Chief Court may from time to time appoint a Registrar and Deputy Registrar and such other ministerial officers as may be necessary for the administration of justice by such Court and for the exercise and performance of the powers and duties conferred and imposed on it by this Act.

The appointment of the Registrar shall be subject to the sanction of the Local Government.

Powers and duties of such officers.

23. The officers so appointed shall exercise such powers and discharge such duties of a ministerial nature as the Chief Court may from time to time direct.

Suspension and dismissal of such officers.

24. Any such officer may be suspended or dismissed from his office by order of the Chief Court: Provided that neither the Registrar nor the Deputy Registrar shall be dismissed without the previous sanction of the Local Government.

Superintendence and control of

25. The general superintendence and control over all Courts of the seven grades last mentioned in section

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four and over all Courts of Small Causes shall be vested in, and such Courts shall be subordinate to, the Chief Court. subordinate Courts.

26. The Chief Court may from time to time make rules— Power to make rules as to petition-writers.

(a) declaring what persons shall be permitted to practise as petition-writers in the Courts of the Panj-
āb ;

(b) regulating the conduct of persons so practising.

Whoever breaks any rule made under this section and having the force of law shall be liable, on conviction before a Magistrate, to a fine which may extend to fifty rupees.

27. The Chief Court may from time to time— Power to make rules as to other matters.

(a) make rules consistent with this Act conferring and imposing on the ministerial officers of the Courts subject to its superintendence, such powers and duties of a ministerial nature as it thinks fit, and regulating the mode in which powers and duties so conferred and imposed shall be exercised and performed ;

(b) make rules consistent with this Act to determine in what cases pleaders practising in such Courts shall be permitted to address such Courts in English ;

(c) prescribe forms of seals to be used by such Courts ;

(d) prescribe forms for such books, entries, statistics and accounts as it thinks necessary should be kept, made or compiled in such Courts or submitted to any authority ;

(e) make rules consistent with this Act, providing for the inspection of such Courts and the supervision of the working thereof ;

(f) make such rules consistent with this Act, institute such inquiries and submit such recommendations to the Local Government as it may think fit, with a view to promoting the efficiency of the judicial and ministerial officers of such Courts and maintaining proper discipline among such officers.

28. The Chief Court shall keep such registers, Registers, books,
books

accounts and statements to be kept and furnished by Chief Court.

books and accounts as may be necessary for the transaction of the business of the Court, and shall submit to the Local Government such of the same registers, books and accounts, and statements of the work done in the Court, as may from time to time be required by the said Government.

The Chief Court shall also comply with such requisitions as may from time to time be made by the Governor General in Council or by the Local Government for certified copies of, or extracts from, the records of the Court.

29. The Chief Court shall be deemed to be a High Court within the meaning of the Code of Civil Procedure, sections 633 and 637.

Chief Court to be deemed a High Court within Act X of 1877, sections 633 and 637.

CHAPTER IV.

OF THE JURISDICTION AND POWERS OF THE SUBORDINATE CIVIL COURTS.

30. Subject to the general superintendence and control of the Chief Court,—

every Commissioner shall control (*a*) the Courts of all Deputy Commissioners, (*b*) the Courts of all persons invested under section nine with the powers of a Commissioner within his division, and (*c*) the Courts controlled by the Deputy Commissioners within his division, and

Controlling powers of Commissioners and Deputy Commissioners.

subject to the control of the Commissioner, every Deputy Commissioner shall control (*a*) all Courts of the five grades last mentioned in section four and all Courts of Small Causes, and (*b*) all Courts of persons invested under section nine with the powers of a Deputy Commissioner within his district.

31. Except as otherwise provided by any enactment for the time being in force, the Court of the Deputy Commissioner of a district shall be deemed to be the District Court or principal Civil Court of original jurisdiction in such district.

32. Except as otherwise provided by any enactment for the time being in force,

Principal Court of original jurisdiction.

(*a*) the

(a) the Court of the Deputy Commissioner shall have jurisdiction for the adjudication of original civil suits without limit as regards the amount or value of the subject-matter of such suits, and

No pecuniary limits to jurisdiction of Deputy Commissioner.

(b) each of the Courts mentioned in the first column of the subjoined table shall have jurisdiction for the adjudication of such suits when such amount or value does not exceed the limit prescribed for such Court in the second column of the said table :

Pecuniary limits of jurisdiction of other Courts.

Court.	Limit of jurisdiction.
	Rs.
(a) The Court of the Assistant Commissioner with full powers	10,000
(b) The Court of the Assistant Commissioner with special powers	500
(c) The Court of the Assistant Commissioner with ordinary powers	100
(d) The Court of the Tahsildár with special powers	300
(e) The Court of the Tahsildár with ordinary powers	50

33. Any Commissioner or Deputy Commissioner may exercise, as regards the Courts under his control, the same powers of withdrawal, trial, disposal and transfer as are conferred by section sixteen on the Chief Court.

Powers of Courts of Commissioner and Deputy Commissioner.

The Court trying any suit withdrawn under this section from a Court of Small Causes shall, for the purposes of such suit, be deemed to be a Court of Small Causes.

The Local Government may, from time to time, confer on any Assistant Commissioner the powers of a Deputy Commissioner under this section, and withdraw the same.

34. Notwithstanding anything contained in the Code of Civil Procedure, every Commissioner and De-

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Power to distribute business.

puty

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puty Commissioner may by written order direct that any civil business cognizable by his Court and the Courts under his control (including the execution of decrees) shall be distributed among such Courts in such manner as he thinks fit :

Provided that no direction issued under this section shall empower any Court to exercise any jurisdiction in any suit of which the amount or value of the subject-matter exceeds its proper jurisdiction :

Provided also that no such direction shall be inconsistent with any direction or notification issued by the Local Government under section twelve or thirteen.

Ministerial
officers of
subordinate
Courts.

35. The ministerial officers of the Courts of the Commissioners, Deputy Commissioners and Courts of Small Causes shall be appointed, and may be suspended and dismissed, by the Judges of those Courts respectively, whose orders in such matters shall, in the case of a Commissioner, be final, and, in the case of a Deputy Commissioner and the Judge of a Court of Small Causes, be subject to the general control of the Commissioner.

The ministerial officers of all Courts controlled by a Deputy Commissioner other than a Court of Small Causes shall be appointed, and may be suspended and dismissed, by the Deputy Commissioner, but subject to the general control of the Commissioner.

Every appointment under this section shall be made subject to such rules as the Local Government from time to time prescribes in this behalf.

The present ministerial officers of the Courts subordinate to the Chief Court shall be deemed to have been appointed under this section.

Power to fine
ministerial
officers.

36. The Judge or presiding officer of every Court under the control of a Deputy Commissioner may fine in an amount not exceeding one month's salary any of the ministerial officers of such Court who is guilty of misconduct or neglect in the performance of the duties of his office.

The Deputy Commissioner, subject to the general control

control of the Commissioner, may on appeal or otherwise reverse or modify any such order made by any such Judge or officer other than a Judge of a Court of Small Causes; and may of his own motion fine up to the amount of one month's salary any ministerial officer of any Court under his control other than a Court of Small Causes.

Any Commissioner or Deputy Commissioner and the Judge of any Court of Small Causes may fine any ministerial officer of his Court in an amount not exceeding one month's salary.

CHAPTER V.

OF APPELLATE JURISDICTION.

37. When by any law for the time being in force an appeal is allowed from any decree or order passed or made by a Civil Court of original jurisdiction, and no provision applicable to the territories to which this Act extends is made by such law for determining the Court to which such appeal shall lie, such appeal shall lie as follows, that is to say:—

(a) when such decree or order is passed or made by the Court of a Tahsildár or of an Assistant Commissioner with special or ordinary powers—to the Court of the Deputy Commissioner;

(b) when such decree or order is passed or made by the Court of an Assistant Commissioner with full powers or of a Deputy Commissioner—to the Court of the Commissioner;

(c) when such decree or order is passed or made by the Court of a Commissioner—to the Chief Court.

38. When the decision of the Court of a Deputy Commissioner or Commissioner passed in appeal under section thirty-seven reverses or modifies the decree or order of the Court of original jurisdiction, and is not declared by any law for the time being in force to be final, the Court of the Commissioner, when such decision has been passed by the Court of a Deputy Commissioner, and the Chief Court, when

First appeals.

When Commissioner and Chief Court may receive further appeal.

such

such decision has been passed by the Court of a Commissioner, may receive a further appeal, if, on a perusal of the grounds of appeal and of copies of the judgments of the lower Courts, it is of opinion that a further consideration of the case is requisite for the ends of justice.

Modification of Code of Civil Procedure, sections 584, 586.

39. The following clause shall be added to the Code of Civil Procedure, section 584:—

“(d) the existence or non-existence, validity or invalidity, of a custom alleged to have the force of law.”

The words “second appeal” in section 585 of the same Code shall be deemed to include an appeal against the order of the Court of a Commissioner passed under section thirty-eight of this Act.

In modification of the same Code, section 586, a further appeal may be received under section thirty-eight of this Act in any suit of the nature cognizable in Courts of Small Causes when the amount or value of the subject-matter of the original suit is less than five hundred rupees: Provided that no such appeal shall lie when such amount or value does not exceed the sum of fifty rupees.

Period of limitation.

40. The period of limitation for an appeal under section thirty-seven, thirty-eight or thirty-nine shall run from the date of the decree, order or decision appealed against, and shall be as follows, that is to say:—

(a) when such appeal lies to the Court of a Deputy Commissioner or Commissioner—sixty days;

(b) when such appeal lies to the Chief Court—ninety days.

In computing such periods of sixty and ninety days, and in all respects not herein specified, the limitation of such appeals shall be governed by the provisions of the Indian Limitation Act, 1877.

Power to withdraw and try or to transfer appeal.

41. Any Civil Court may, either of its own motion or on the application of any of the parties, after giving notice to the parties and hearing such of them as desire to be heard, withdraw any civil appeal pending

ing in any Court under its superintendence or control, and try such appeal itself or transfer the same for trial to any other Court under its superintendence or control and of a grade equal or superior to that of the Court from which such appeal is withdrawn.

CHAPTER VI.

OF ADVOCATES AND PLEADERS.

42. Notwithstanding anything contained in the Pleaders, Mukhtárs and Revenue Agents Act, 1865, sections 45 and 46, no person shall appear, plead or act on behalf of another in any Civil Court unless with the permission of the Chief Court.

Who may plead, &c., the Courts

43. The Chief Court may from time to time make rules to regulate applications for permission to appear, plead or act in all or any of the Courts under its control, and the form in which such permission shall be granted.

Power to make rules regarding pleaders.

44. The Chief Court may at any time, for sufficient reason, withdraw any permission granted under this chapter, or suspend the operation of the same.

Power to withdraw or suspend permission to appear, &c. in Courts.

45. The Chief Court may from time to time by general order in writing fix and regulate the fees which shall be payable upon all proceedings in such Court by any party in respect of the fees of his adversary's pleader.

Power to fix pleaders' fees as between parties.

CHAPTER VII.

MISCELLANEOUS.

46. Except with the consent of the parties, no Judge of any Court shall try any suit or appeal to or in which he is a party or personally interested, or any appeal against a decree or order passed by himself; or shall adjudicate upon any proceeding connected with, or arising out of, such suit or appeal.

Judges not to try certain suits and appeals.

When any such suit, appeal or proceeding comes before him, he shall forthwith transmit the record of
the

the case to the Chief Court with a report of the circumstances attending the reference. The Chief Court shall thereupon dispose of the case in the manner prescribed by the Code of Civil Procedure, section 25.

Rules when to have force of law.

47. All rules made and forms prescribed under section twenty-six and section twenty-seven, clauses (a), (b), (d) and (e), shall be submitted for sanction to the Local Government, and, on receiving such sanction, shall be published in the official Gazette, and shall thereupon have the force of law.

Local Government may transfer power conferred by section 25, to a single Judge.

48. The Local Government may from time to time, with the previous sanction of the Governor General in Council, by notification in the official Gazette, appoint a single Judge of the Chief Court to exercise the power of superintendence conferred on such Court by section twenty-five, and may cancel such notification.

While such notification continues in force, such power shall be exercised by the Judge appointed thereby and not otherwise.

Power to invest Settlement-officers with powers of Civil Courts in certain cases.

49. The Local Government may from time to time, by notification in the official Gazette, declare that a settlement of land-revenue is in progress in any local area, and invest any officer making or controlling such settlement with all or any of the powers of any Court constituted under this Act for the purpose of trying all or any specified class of suits and appeals relating to land, or the rent, revenue or produce of such land, arising in such local area.

The publication of any notification under this section shall be conclusive evidence that a settlement of land-revenue is in progress in the local area to which the notification refers.

The Local Government may cancel any such notification.

While such notification continues in force, such powers shall be exercised by the officers so invested and not otherwise :

Provided that the Local Government may by order published in the official Gazette direct that any jurisdiction

diction with which any officer may have been invested by such notification shall be exercised solely by the Civil Court by which such jurisdiction would have been exercised if such notification had not been published :

Provided also that any cases pending before any officer under such notification when it is cancelled may, notwithstanding such cancellation, be disposed of by him as if it continued in force, unless the Local Government directs (as it is hereby empowered to do) that such cases shall be transferred for disposal to the Court by which they would have been disposed of if such notification had not been published.

Explanation.—In this section “land” means land assessed to the land-revenue or whereof the land-revenue has been wholly or in part released, compounded for, redeemed or assigned, and all land the property of Government not within the site of any town or village.

50. For the purposes of section forty-nine, the Local Government may, notwithstanding anything herein contained, from time to time direct that any of the Courts hereinbefore mentioned (except the Chief Court) shall, in respect of any specified class of cases, be subordinate to, or subject to the control or superintendence of, any authority other than those herein specified.

Power to alter subordination of Courts for purposes of section 49.

SCHEDULE.

(See section 2).

ACTS REPEALED.

Number and year of Act.	Title.
XIX of 1865 ...	An Act to define the jurisdiction of the Courts of Judicature of the Panjáb and its Dependencies.
IV of 1866 ...	An Act to amend the constitution of the Chief Court of Judicature in the Panjáb and its Dependencies.
XXVII of 1867 ...	An Act to empower Deputy Commissioners in the Central Provinces, the Panjáb, Oudh and the Jhánsí Division to distribute the business in subordinate Courts.
III of 1868 ...	An Act to authorize the Local Government of the Panjáb to invest any person with the powers of an Assistant Commissioner or Tahsildár.
IX of 1873 ...	An Act to prolong the law relating to Appeals and Reviews of Judgment in the Panjáb.
V of 1874 ...	An Act to invest the Assistant Commissioner in charge of the Kullu sub-division of the Kángra District with certain appellate powers.
XIX of 1875 ...	An Act to provide an appeal from certain decrees of the Chief Court of the Panjáb, and for other purposes.