

[AS INTRODUCED IN THE NATIONAL ASSEMBLY]

A

Bill

further to amend the Code of Civil Procedure, 1908

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908 (Act V of 1908) for bringing procedural reforms in order to provide inexpensive and expeditious justice;

It is hereby enacted as follows:-

1. Short title, commencement and extent.—(1) This Act may be called the Code of Civil Procedure (Amendment) Act, 2019.

(2) It shall come into force at once.

(3) It shall extend to the Islamabad Capital Territory.

2. Amendment of section 1, Act V of 1908.— In the Code of Civil Procedure, 1908 (Act V of 1908), hereinafter referred to as the said Act, in section 1, after sub-section (3), the following new sub-section shall be inserted, namely:-

“(4) The primary objective of this Code is to enable the Courts to-

- (a) deal with the cases justly and fairly;
- (b) encourage parties to alternate dispute resolution procedure if it considers appropriate;
- (c) save expense and time both of courts and litigants; and
- (d) enforce compliance with provisions of this Code.”.

3. Substitution of section 3, Act V of 1908.— In the said Act, for section 3, the following shall be substituted, namely:-

“**3. Subordination of Courts.**—For the purposes of this Code, the hierarchy and subordination of Civil Courts shall be the same as prescribed

in the West Pakistan Civil Courts Ordinance, 1962 (W.P. Ordinance No. II of 1962).”.

4. Substitution of section 6, Act V of 1908.- In the said Act, for section 6, the following shall be substituted, namely:-

“6. Pecuniary jurisdiction.— Save in so far as is provided for the Islamabad High Court exercising original civil jurisdiction at Islamabad, all civil suits shall be filed in the following manner, namely:—

- (a) where the amount or value of the subject matter of the suit is below rupees fifty million, the suit shall be filed in the court of Civil Judge, as may be prescribed by the High Court; and
- (b) where the amount or value of the subject matter of the suit is above rupees fifty million the suit shall be filed in the court of District Judge, as may be prescribed by the High Court.”.

5. Omission of section 7, Act V of 1908.- In the said Act, section 7 shall be omitted.

6. Substitution of section 26, Act V of 1908.- In the said Act, for section 26, the following shall be substituted, namely:-

“26. Institution of suits through plaint or otherwise.- (1) Every suit shall be instituted by the presentation of a plaint or in such other manner as may be prescribed.

(2) On presentation of the plaint, it shall be the duty of the Court to *prima facie*, satisfy itself of jurisdiction, cause of action and limitation:

Provided that if Court does not satisfy itself, it shall be bound to record reasons for doing so.

(3) The plaintiff shall, at the time, file as many copies of the plaint and accompanying documents as there are defendants to the suit to be sent along with the summons and two extra copies of the entire set.

(4) It shall be duty of the Court to maintain electronic records of proceedings in suits as may be prescribed.

Explanation.- For the purposes of this sub-section suits includes any proceedings in applications, appeals, review, revision or anything incidental thereto.

26A. Written statement and proposed issues by the defendant.-(1) The defendant shall file written statement not later than thirty days from the date of service to the plaintiff:

Provided that if the defendant fails to file written statement on the date fixed, the Court may grant an opportunity to file the same not later than fifteen days subject to payment of adjournment costs:

Provided further that if the defendant fails to file after the opportunity given under the first proviso, a final opportunity may be given by the Court to file the written statement not later than fifteen days subject to payment of adjournment costs after which the defendant shall lose the right of defence and the Court shall close the right to defend the case:

Provided also that the written statement may be allowed to be filed by the Court upon payment of costs to be determined by it, if the defendant through an application supported by an affidavit, satisfies the Court that he had just and sufficient cause and the Court record reasons for it.

(2) The defendant shall file proposed issues along with the written statement:

Provided that if no issues are proposed by the defendant, the Court shall permit the defendant to file proposed issues not later than seven days upon payment of cost to be determined by the Court.