

The Delhi High Court Act, 1966

[Act 26 of 1966]

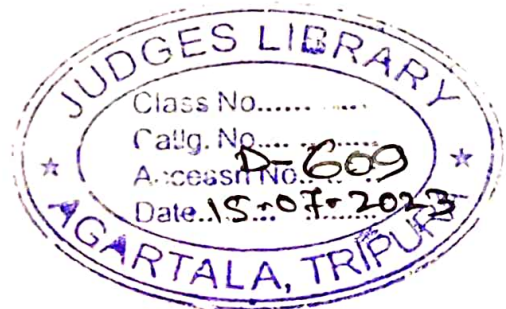
along with

Delhi High Court (Original Side) Rules, 2018

**High Court of Delhi Designation of Senior
Advocate Rules, 2018**

and

Case Law



***With
complete
legislative
history***

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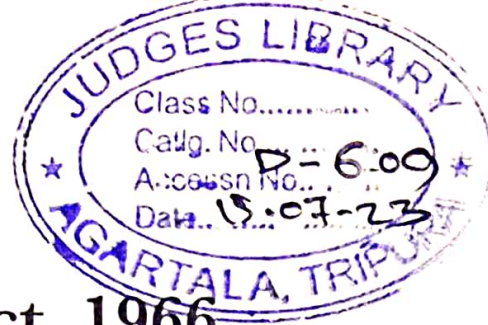
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The Delhi High Court Act, 1966



CONTENTS

<i>Sections</i>	<i>Pages</i>
1. Short title and commencement	2
2. Definitions	3
3. High Court	3
3-A. Salaries and allowances of Judges to be expenditure charged on Consolidated Fund of India	3
4. Exceptions and modifications subject to which the provisions of Chapter V of Part VI of the Constitution apply to the High Court of Delhi	3
5. Jurisdiction of High Court of Delhi	4
6. Power to enrol legal practitioners, etc	5
7. Practice and procedure in the High Court of Delhi	5
8. Custody of the Seal of the Court of Delhi	6
9. Form of writs and other processes	6
10. Powers of Judges	6
11. Procedure as to appeals to Supreme Court	7
12. Transfer of proceedings from the High Court of Punjab to the High Court of Delhi	7
13. Right to appear or to act in proceedings transferred to the High Court of Delhi	8
14. Interpretation	8
15. Savings	8
16. Pending proceedings before subordinate courts in Delhi	8
17. Extension of the jurisdiction of the High Court of Delhi	8
18. Rule of construction	9
19. Amendment of certain laws [<i>Repealed</i>]	9
20. Power to remove difficulties	9
21. Power to adopt laws	10
SCHEDULE	10

The Delhi High Court Act, 1966¹

[Act 26 of 1966]

[5th September, 1966]

An Act to provide for the constitution of a High Court for the Union Territory of Delhi, for the extension of the jurisdiction of that High Court to the Union Territory of Himachal Pradesh and for matters connected therewith

Be it enacted by Parliament in the Seventeenth Year of the Republic of India as follows:—

Statement of Objects and Reasons of Amending Act 23 of 2015.—Under sub-section (2) of Section 5 of the Delhi High Court Act, 1966, the High Court of Delhi has ordinary original civil jurisdiction in respect of suits, the value of which exceeds Rupees Twenty lakhs. The pecuniary jurisdiction of the High Court of Delhi and District Courts of Delhi was last revised in the year 2003 from rupees five lakhs to twenty lakhs by the Delhi High Court (Amendment) Act, 2003.

2. At present, cases involving even a small property are required to be filed before Delhi High Court as the Delhi High Court has ordinary original civil jurisdiction of the civil suits involving value of Rupees Twenty lakhs and above. This has increased the work load of the Delhi High Court and on the other hand, poor people living in Delhi have to cover considerable distance to approach Delhi-High Court to seek justice in their cases.

3. The Coordination Committee of Bar Associations of Delhi at various forums has requested for enhancement of pecuniary jurisdiction of District Courts in Delhi. The Government of National Capital Territory of Delhi has considered the request of the Bar Associations of Delhi and requested the Central Government for enhancement of pecuniary jurisdiction of ordinary original jurisdiction of the High Court of Delhi from the existing Rupees Twenty lakhs to Rupees Two crore.

4. Accordingly, it has been decided to increase pecuniary jurisdiction of the High Court of Delhi from Rupees Twenty lakhs to two crore by amending the Delhi High Court Act, 1966 and the Punjab Courts Act, 1918, as in force in the National Capital Territory of Delhi.

5. The Bill seeks to achieve the aforesaid objects.

CASE LAW ► Object.—The Delhi High Court Act, 1966 is an enactment by Parliament whereunder from 31-10-1966 the High Court has been established for the UT of Delhi which has been referred to as the High Court of Delhi. The territorial jurisdiction of the High Court includes the territory of UT of Delhi. All original, appellate and other jurisdictions which had been exercised in regard to this territory by the High Court of Punjab is exercisable by the High Court of Delhi, *Delhi Bar Assn. (Regd.) v. Union of India*, (2008) 13 SCC 628.

1. Short title and commencement.—(1) This Act may be called the Delhi High Court Act, 1966.

(2) Section 17 shall come into force on such date² as the Central Government may, by notification in the Official Gazette, appoint; and the remaining provisions of this Act shall come into force at once.

1. Published in Gazette of India, Extra., Part II, Section 1, dated September 5, 1966, p. 309.

2. 1-5-1967 [Vide Noti. No. GSR 508, dated 11-4-1967].

2. Definitions.—In this Act, unless the context otherwise requires,—

- (a) “appointed day” means the date appointed under Section 3;
- (b) “notified order” means order notified in the Official Gazette.

3. High Court.—(1) As from such date³ as the Central Government may, by notification in the Official Gazette, appoint, there shall be a High Court for the Union Territory of Delhi (hereinafter referred to as the High Court of Delhi).

(2) The principal seat of the High Court of Delhi shall be at Delhi or at such other place as the President may, by notified order, appoint.

(3) Notwithstanding anything contained in sub-section (2), the Judges and Division Courts of the High Court of Delhi may sit at such other place or places other than its principal seat as the Chief Justice may, with the approval of the President, appoint.

⁴[**3-A. Salaries and allowances of Judges to be expenditure charged on Consolidated Fund of India.**—Expenditure in respect of the salaries and allowances of Judges of the High Court of Delhi shall be expenditure charged on the Consolidated Fund of India.]

4. Exceptions and modifications subject to which the provisions of Chapter V of Part VI of the Constitution apply to the High Court of Delhi.—(1) The provisions of Chapter V of Part VI of the Constitution shall, in their application to the High Court of Delhi, have effect subject to the following exceptions and modifications, namely:—

(a) in Article 217, the words “the Governor of the State” shall be omitted and in relation to appointments to be made under sub-section (2), that article shall be construed as if the words “and, in the case of appointment of a Judge other than the Chief Justice, the Chief Justice of the High Court,” had also been omitted;

(b) in Article 219, the reference to the Governor of the State, and in the proviso to clause (3) of Article 227, the reference to the Governor, shall be construed as a reference to the administrator of the Union Territory of Delhi;

(c) the provisions of Article 225 shall not apply;

(d) in Article 229,—

(i) the references to the Governor of the State shall be construed as reference to the administrator of the Union Territory of Delhi;

(ii) the references to the State Public Service Commission, the Legislature of the State and the Consolidated Fund of the State shall be construed, respectively, as references to the Union Public Service Commission, Parliament and the Consolidated Fund of India;

3. 31-10-1966 [Vide Noti. No. S.O. 3273, dated 27-10-1966].

4. Ins. by Act 37 of 1969, S. 2 (w.e.f. 1-10-1969).

(e) the provisions of Article 230 shall apply subject to the modifications that—

- (i) in clause (1) thereof, for the words “High Court” in both the places where they occur, the words “High Court for a Union territory” and for the words “any Union territory”, the words “any other Union territory” shall be *substituted*;
- (ii) for clause (2) thereof, the following clause shall be *substituted*, namely:—

“(2) Where the High Court for a Union Territory exercises jurisdiction in relation to another Union territory, the reference in Article 227 to the administrator of the Union Territory of Delhi shall, in relation to any rules, forms or tables for subordinate courts in that other Union territory, be construed as a reference to the administrator of that other Union territory.”.

(2) Between the coming into force of this section and the appointed day, the President may, after consultation with the Chief Justice of India, appoint the Chief Justice of the High Court of Delhi and as many other Judges of the said High Court as he thinks fit, and any appointments so made shall take effect as from the appointed day.

CASE LAW ▶ Interpretation/Construction.—Word ‘may’ in Section 5 of Delhi High Court (Amendment) Act, 1991 means ‘shall’, used in deference to high office of Chief Justice. Discretion of Chief Justice is administrative in nature, not judicial. Consultation of Full Court not improper if final decision is Chief Justice’s own, *Delhi High Court Bar Assn. v. Hon’ble Chief Justice, High Court of Delhi*, ILR (1994) 1 Del 271.

5. Jurisdiction of High Court of Delhi.—(1) The High Court of Delhi shall have, in respect of the territories for the time being included in the Union Territory of Delhi, all such original, appellate and other jurisdiction as, under the law in force immediately before the appointed day, is exercisable in respect of the said territories by the High Court of Punjab.

(2) Notwithstanding anything contained in any law for the time being in force, the High Court of Delhi shall also have in respect of the said territories ordinary original civil jurisdiction in every suit the value of which exceeds ⁵[Rupees two crore].

CASE LAW ▶ Order refusing amendment of written statement.—Order of Single Judge refusing amendment of written statement at the time of framing issues is appealable to Division Bench, being not a purely interlocutory order but one vitally affecting rights of the parties and causing injustice to the plaintiff, *Jugal Kishore Paliwal v. S. Sat Jit Singh*, (1984) 1 SCC 358.

5. Subs. for “rupees twenty lakhs” by Act 23 of 2015, S. 2 (w.e.f. 26-10-2015). In this regard S. 4 of Act 23 of 2015 provides:

“4. *Power of Chief Justice to transfer pending suits and proceedings to subordinate courts.*—The Chief Justice of the High Court of Delhi may transfer any suit or other proceedings which is or are pending in the High Court immediately before the commencement of this Act to such subordinate court in the National Capital Territory of Delhi as would have jurisdiction to entertain such suit or proceedings had such suit or proceedings been instituted or filed for the first time after such commencement.”

► **Preliminary, interlocutory or final judgment or order.**—When a judgment is delivered by Single Judge exercising the jurisdiction inherited from the Punjab High Court under Section 5(1) of the Delhi High Court Act, 1966, then the appeal against it lies under Clause 10 of the Letters Patent. On the other hand, when a learned Single Judge delivers a judgement in exercise of the ordinary original civil jurisdiction obtained from the subordinate courts under Section 5(2) of the Delhi High Court Act then the appeal lies under Section 10(1) of the Act. Due to this basic difference, the meanings of the word “judgment” in Clause 10 of the Letters Patent and Section 10(1) of the Delhi High Court Act are different. The former includes a preliminary, interlocutory or final judgment or order, while the latter includes only a decree or an order appealable under the Court of Civil Procedure, *Public Trustee v. Rajeshwar Tyagi*, ILR (1973) 1 Del 29.

► **Non-obstante clause.**—The non-obstante clause in sub-section (2) of Section 5 of the Delhi High Court Act operates only in relation to provisions contained in any law with regard to jurisdiction of Courts vis-a-vis suite, and leaves other jurisdiction untouched.

It is not possible to read in the definition of the District Judge given in Section 2(bb) of the Indian Succession Act any exclusion of the ‘District Judge’ as such from the ambit of the said definition or to hold that merely because ordinary original civil jurisdiction has been conferred on this Court in relation to suits of a certain pecuniary valuation, the testamentary and intestate jurisdiction of the ‘District Judge’ had thereby been taken away, *Mary Assumption Trinidad v. Vincent Manuel Trinidad*, ILR (1976) 1 Del 95.

6. Power to enrol legal practitioners, etc.—(1) The High Court of Delhi shall have like powers to approve, admit, enroll, remove and suspend legal practitioners, and to make rules with respect to them, as are, under the law in force immediately before the appointed day, exercisable by the High Court of Punjab.

(2) The right of audience in the High Court of Delhi shall be regulated in accordance with the like principles, as, immediately before the appointed day, are in force with respect to the right of audience in the High Court of Punjab:

Provided that subject to any rule made or direction given by the High Court of Delhi in the exercise of the powers conferred by this section, any person who immediately before the appointed day is an advocate entitled to practise or an attorney entitled to an act in the High Court of Punjab shall be recognised as advocate or an attorney entitled to practice or act, as the case may be, in the High Court of Delhi.

7. Practice and procedure in the High Court of Delhi.—Subject to the provisions of this Act, the law in force immediately before the appointed day with respect to practice and procedure in the High Court of Punjab shall, with the necessary modifications, apply in relation to the High Court of Delhi and accordingly the High Court of Delhi shall have all such powers to make rules and orders with respect to practice and procedure as are immediately before the appointed day exercisable by the High Court of Punjab and shall also have powers to make rules and orders with respect to practice and procedure for the exercise of its ordinary original civil jurisdiction:

Provided that any rules or orders which are in force immediately before the appointed day with respect to practice and procedure in the High Court of Punjab shall, until varied or revoked by rules or orders made by the High Court of Delhi



apply with the necessary modifications in relation to practice and procedure in the High Court of Delhi as if made by that High Court.

8. Custody of the Seal of the Court of Delhi.—The law in force immediately before the appointed day with respect to the custody of the Seal of the High Court of Punjab shall, with the necessary modifications, apply with respect to the custody of the Seal of the High Court of Delhi.

9. Form of writs and other processes.—The law in force immediately before the appointed day with respect to the form of writs and other processes used, issued or awarded by the High Court of Punjab shall, with the necessary modifications, apply with respect to the form of writs and other processes used, issued or awarded by the High Court of Delhi.

10. Powers of Judges.—(1) Where a Single Judge of the High Court of Delhi exercises ordinary original civil jurisdiction conferred by sub-section (2) of Section 5 on that Court, an appeal shall lie from the judgment of the Single Judge to a Division Court of that High Court.

(2) Subject to the provisions of sub-section (1), the law in force immediately before the appointed day relating to the powers of the Chief Justice, Single Judges and Division Courts of the High Court of Punjab and with respect to all matters ancillary to the exercise of those powers shall, with the necessary modifications, apply in relation to the High Court of Delhi.

CASE LAW ▶ Maintainability of appeal.—An appeal barred under Section 39 of the Arbitration Act cannot be maintained under Section 10 of the High Court Act, *Banwari Lal Radhey Mohan v. Punjab State Co-Op. Supply And Marketing Federation Ltd.*, (1983) 5 DRJ 223.

▶ **Final order.**—Unless restitution becomes impossible without getting the interim injunction and monetary compensation cannot retrieve the situation, such order is not final and therefore not appealable under Letters Patent, *Nisha Raj v. Pratap K. Kaula*, (1995) 32 DRJ 89 (DB).

▶ **Right of appeal.**—Non obstante clause contained in Section 54 does not bar the right of appeal to Division Bench, *Mahli Devi v. Chancier Bhan*, (1995) 33 DRJ 121.

There must be finality in the determination of some controversy arising in the suit and not merely an order which invokes the procedural provision as a step in aid of a final determination. That order does not determine any right leave alone any valuable right of any one of the parties nor the same determine the controversy in the suit or any part thereof so as to constitute a "judgment", *Pte Ltd. v. Lacoste S.A.*, (2008) 100 DRJ 547(DB).

▶ **Interlocutory order.**—An interlocutory order may not amount to a decree or be appealable under Order 43 of CPC. The order, however, would be appealable if the same tantamounts to a judgment within the meaning of Section 10(1) of the High Court Act and Clause 10 of the Letters Patent, *Gautam Adani v. Container Corp. of India*, ILR (2008) 1 Del 1304.

▶ **Order not appealable.**—Order issuing notice on the application of the appellant does not involve any adjudication of rights of parties hence, the grant of notice is not a judgment and, therefore, the order is not appealable, *Sahil Singh Maniktala v. Harpreet Singh*, (2005) 81 DRJ 183(DB).

► **Locus standi.**—The beneficiary of the land has locus standi to challenge the order setting aside the acquisition proceedings in letter patent appeal, *International Airports Authority of India v. Akhil Sibal*, (1996) 37 DRJ 1 (DB).

► **Judgment.**—A judgment, apart from the final judgment and preliminary judgment whereby a suit is dismissed on preliminary objection without going into the merits of the case, would also include orders specified in Order XXXIII Rule 1 and even those which possess the characteristics and trappings of finality affecting valuable right of a party or deciding an important aspect of the trial, *Gautam Adani v. Container Corp. of India*, ILR (2008) 1 Del 1304.

► **Appeal under Letters Patent.**—Refusal to amend as well as refusal to implead are of such moment as would justify appeal under Letters Patent or in case of Delhi High Court under Delhi High Court Act, *Walchandnagar Industries Ltd. v. Saraswati Industrial Syndicate Ltd.*, ILR (2011) 2 Del 23 (Del).

► **Order not appealable under CPC.**—Order passed by Single Judge in exercise of Original Jurisdiction and not appealable under CPC can be challenged by letter patent appeal to Division Bench if it constitute a judgment i.e. it adjudicates valuable rights of the parties, *Jaswinder Singh v. Mrigendra Pritam Vikram Singh Steiner*, (2013) 133 DRJ 1 (Del)(FB).

► **Ex parte order.**—Appeal seeking setting aside of *Ex parte* order not maintainable as in the instant case, impugned order dated 28-10-2013 would not qualify as a “judgment” within the meaning of Section 10(1) of the Delhi High Court Act, 1966, *Alex Jewellery (P) Ltd. v. Rolex SA*, 2014 SCC OnLine Del 807 : (2014) 1 HCC (Del) 32.

11. Procedure as to appeals to Supreme Court.—The law in force immediately before the appointed day relating to appeals to the Supreme Court from the High Court of Punjab and the Judges and Division Courts thereof shall, with the necessary modifications, apply in relation to the High Court of Delhi.

12. Transfer of proceedings from the High Court of Punjab to the High Court of Delhi.—(1) Except as hereinafter provided, the High Court of Punjab shall, as from the appointed day, have no jurisdiction in respect of the Union Territory of Delhi.

(2) Such proceedings pending in the High Court of Punjab immediately before the appointed day as are certified, whether before or after that day, by the Chief Justice of that High Court having regard to the place of accrual of the cause of action and other circumstances to be proceedings which ought to be heard and decided by the High Court of Delhi, shall, as soon as may be after such certification, be transferred to the High Court of Delhi.

(3) Notwithstanding anything contained in sub-sections (1) and (2) of this section and in Section 5, but save as hereinafter provided, the High Court of Punjab shall have, and the High Court of Delhi shall not have, jurisdiction to entertain, hear or dispose of, appeals, applications for leave to appeal including leave to appeal to the Supreme Court, applications for review and other proceedings where any such proceedings seek any relief in respect of any order passed by the High Court of Punjab before the appointed day:

Provided that if after any such proceedings have been entertained by the High Court of Punjab, it appears to the Chief Justice of that High Court that they ought to be transferred to the High Court of Delhi, he shall order that they shall be so transferred, and such proceedings shall thereupon be transferred accordingly.

(4) Any order made by the High Court of Punjab—

- (a) before the appointed day, in any proceedings transferred to the High Court of Delhi by virtue of sub-section (2)
- (b) in any proceedings with respect to which the High Court of Punjab retains jurisdiction by virtue of sub-section (3),

shall for all purposes have effect, not only as an order of the High Court of Punjab, but also as an order made by the High Court of Delhi.

13. Right to appear or to act in proceedings transferred to the High Court of Delhi.—Any person who, immediately before the appointed day, is an advocate entitled to practise or an attorney entitled to act, in the High Court of Punjab, and was authorised to appear or to act in any proceedings transferred from that High Court to the High Court of Delhi under Section 12, shall have the right to appear or to act, as the case may be, in the High Court of Delhi in relation to those proceedings.

14. Interpretation.—For the purposes of Sections 12 and 17,—

- (a) proceedings shall be deemed to be pending in a court until that court has disposed of all issues between the parties, including any issues with respect to the taxation of the costs of proceedings and shall include appeals, applications for leave to appeal to the Supreme Court, applications for review, petitions for revisions and petitions for writs;
- (b) references to a High Court shall be construed as including references to a Judge or Division Court thereof, and references to an order made by a court or a Judge shall be construed as including references to a sentence, judgment or decree passed or made by that court or Judge.

15. Savings.—Save as provided in Section 4, nothing in this Act shall affect the application to the High Court of Delhi of any provisions of the Constitution, and this Act shall have effect subject to any provision that may be made on or after the appointed day with respect to that High Court by any Legislature or other authority having power to make such provision.

16. Pending proceedings before subordinate courts in Delhi.—All proceedings pending immediately before the appointed day in any subordinate court in the Union Territory of Delhi in or in relation to any such civil suit as is referred to in sub-section (2) of Section 5 shall on that day stand transferred to the High Court of Delhi which shall proceed to try, hear and determine the matter as if it had been pending therein.

17. Extension of the jurisdiction of the High Court of Delhi.—(1) As from such date as the Central Government may, by notification in the Official Gazette, appoint (hereinafter referred to as the prescribed date), the jurisdiction of the High Court of Delhi shall extend to the Union Territory of Himachal Pradesh.

(2) As from the prescribed date the Court of the Judicial Commissioner for Himachal Pradesh shall cease to function and is hereby abolished:

Provided that nothing in this sub-section shall prejudice or affect the continued operation of any notice served, injunction issued, direction given, or proceedings taken before the prescribed date by the Court of the Judicial Commissioner for Himachal Pradesh abolished by this sub-section.

(3) The High Court of Delhi shall have, in respect of the territories for the time being included in the Union Territory of Himachal Pradesh,—

- (a) all such original, appellate and other jurisdiction as under the law in force immediately before the prescribed date, is exercisable in respect of the said territories by the Court of the Judicial Commissioner for Himachal Pradesh; and also
- (b) ordinary original civil jurisdiction in every suit the value of which exceeds ⁶[fifty thousand rupees], notwithstanding anything contained in any law for the time being in force.

(4) All proceedings pending in the Court of the Judicial Commissioner for Himachal Pradesh before the prescribed date shall stand transferred to the High Court of Delhi.

(5) Any order made before the prescribed date by the Court referred to in sub-section (4) shall for all purposes have effect not only as an order of that Court but also as an order of the High Court of Delhi.

(6) For the removal of doubts, it is hereby declared that the provisions of Sections 6 to 11 and 13 shall, with the necessary modifications, apply to the High Court of Delhi in the exercise of jurisdiction conferred upon it by this section.

(7) All proceedings pending immediately before the prescribed date in any subordinate court in the Union Territory of Himachal Pradesh in or in relation to any such civil suit as is referred to in clause (b) of sub-section (3) shall on that date stand transferred to the High Court of Delhi which shall proceed to try, hear and determine the matter as if it had been pending therein.

18. Rule of construction.—(1) References in any law in force in the Union Territory of Delhi to the High Court of Punjab shall, as from the appointed day, be construed in relation to that Union Territory as references to the High Court of Delhi.

(2) References in any law in force in the Union Territory of Himachal Pradesh to the High Court of Punjab or to the Court of the Judicial Commissioner for that territory shall, as from the prescribed date, be construed in relation to that Union Territory as references to the High Court of Delhi.

19. Amendment of certain laws.—⁷[*Repealed*]

20. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by notified order, make such provisions as appears to it to be necessary or expedient for the removal of the difficulty.

6. Subs. for "twenty-five thousand rupees" by Act 37 of 1969, S. 4.

7. *Repealed* by Repealing and Amending Act (56 of 1974), S. 2 and Sch. I. Prior to repeal it read as:

"19. *Amendment of certain laws.*—The laws specified in the Schedule shall be amended in the manner and with effect from the date specified therein."

(2) Every order made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the order or both Houses agree that the order should not be made, the order shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that order.

21. Power to adopt laws.—For the purpose of facilitating the application of any law in relation to the Union Territory of Delhi or Himachal Pradesh, the Central Government may, before the expiration of two years, from the appointed day in relation to the Union Territory of Delhi and before the expiration of two years from the prescribed date in relation to the Union Territory of Himachal Pradesh, by order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient to give effect to the provisions of this Act and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

SCHEDULE

(See Section 19)

⁸[Repealed]

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8. Schedule *repealed* by the Repealing and Amending Act (56 of 1974), S. 2 and Sch. I. Prior to repeal it read as:

‘THE SCHEDULE

(See Section 19)

I. As from the appointed day, in the Punjab Courts Act, 1918 (Punjab Act VI of 1918) as in force in the Union territory of Delhi,—

- (i) in Section 25, for the words “in original civil suits without limit as regards the value”, the words “in every original civil suit the value of which does not exceed twenty-five thousand rupees” shall be *substituted*;
- (ii) in Section 26, for the words “The jurisdiction”, the words and figures “Subject to the limit specified in Section 25, the jurisdiction” shall be *substituted*;

II. As from the prescribed date, in the Judicial Commissioners’ Courts (Declaration as High Courts) Act, 1950 (15 of 1950), in Section 3, the expression “Himachal Pradesh,” shall be *omitted*

III. As from the prescribed date, in the Himachal Pradesh (Courts) Order, 1948,—

- (i) throughout the order, save as otherwise expressly provided, for the words “Chief Commissioner”, the words “Lieutenant Governor” shall be substituted and for the words “Judicial Commissioner” or “Court of the Judicial Commissioner”, the words “High Court” shall be *substituted*, and such consequential amendments as the rules or grammar may require shall be made;
- (ii) Chapter II shall be *omitted*;
- (iii) in Paragraph 15, the words “the Court of the Judicial Commissioner and” shall be *omitted*;
- (iv) in Paragraph 20, for the words “in civil suits without limit as regards the value”, the words “in every civil suit the value of which does not exceed twenty-five thousand rupees” shall be *substituted*;
- (v) in Paragraph 21, for the words “The jurisdiction”, the words and figures “Subject to the limit specified in Paragraph 20, the jurisdiction” shall be *substituted*;
- (vi) in Paragraph 36, sub-paragraph (1) shall be *omitted* and in sub-paragraph (2), for the words, brackets and figure “under sub-paragraph (1)”, the words and figures “for the exercise of jurisdiction under Paragraph 35” shall be *substituted*.