

## **AHMEDABAD CITY COURTS ACT, 1961**

**19 of 1961**

**[15th May. 1961]**

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## **SCHEDULE 1 :- SCHEDULE**

### **AHMEDABAD CITY COURTS ACT, 1961**

**19 of 1961**

**[15th May. 1961]**

An Act to provide for the constitution of Civil and Criminal Courts for the City of Ahmedabad and for other matters connected therewith. It is hereby enacted in the Twelfth Year of the Republic of India, as follows:-

#### CHAPTER 1

#### Preliminary

#### **1. Short title and commencement :-**

(1) This Act may be called the Ahmedabad City Courts Act, 1961.

(2) This section shall come into force at once and the remaining provisions of this Act shall come into force on such day as the State Government may, by notification in the Official Gazette, appoint.

#### **2. Definitions :-**

In this Act, unless the context otherwise requires,-

<sup>1</sup>[(1A) "Amending Act" means the Ahmedabad City Courts (Amendment) Act, 1980 (Gujarat 33 of 1980)<sup>2</sup>

(1) "appointed day" means the day on which the remaining provisions of this Act come into force under sub-section (2) of Section 1 ;

<sup>3</sup>[(2) "City of Ahmedabad" means the areas within the limits of the City of Ahmedabad as constituted under the Corporations Act, immediately before the specified date: Provided that as and when the limits of the City of Ahmedabad as constituted under the Corporations Act, are altered under sub- section (2) of section 3 of that Act, by the inclusion therein, or exclusion therefrom of any area, the State Government may, by a notification in the Official Gazette, alter the limits of the City of Ahmedabad as defined in this clause by including therein, or excluding therefrom, with effect on

and from such date as may be specified in such notification, any such area as is so included in or excluded from, the limits of the City of Ahmedabad as constituted under the Corporations Act];

(3) "City Court" means the Court established under section 3;

<sup>4</sup>[(4) "Corporation Act" means the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949)];

(5) "High Court" means the High Court of Gujarat;

(6) "Small Cause Court" means the Court of Small Causes of Ahmedabad.

<sup>5</sup> [(7) "specified date" means the date of the coming into force of the Amending Act.]

1. Inserted by Gujarat 33 of 1980.

2. The Gujarat 33 of 1980 came into force on 1st March, 1981 vide G.G. Gujarat Pt. IV-B Ext. d. 23-2-1981.

3. Substituted by Gujarat 33 of 1980.

4. Substituted by Gujarat 33 of 1980.

5. Added by Gujarat 33 of 1980.

## CHAPTER 2

Constitution of City Civil Court for the City of Ahmedabad

### **3. Constitution of City Court :-**

The State Government may, by notification in the Official Gazette, establish for the City of Ahmedabad a Court, to be called the Ahmedabad City Civil Court. Notwithstanding anything contained in any law, such Court shall have jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature and arising within the City of Ahmedabad, except suits or proceedings which are cognizable by the High Court and Small Cause Court.

### **4. Subordination to and superintendence by High Court :-**

The City Court shall be deemed to be a Court subordinate to and subject to the superintendence of the High Court within the meaning of the Code of Civil Procedure, 1908, (V of 1908).

### **5. Appointment of Judges :-**

The State Government may, by notification in the Official Gazette, appoint as many persons as it thinks fit to be Judges of the City Court.

### **6. Powers of Judges when City Court consists of more than one Judge :-**

When the City Court consists of more than one Judge-

(a) each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force;

(b) the State Government may appoint any one of the Judges to be the Principal Judge;

(c) the principal Judge may from time to time make arrangements as he may think fit for the distribution of the business of the Court among the various Judges thereof.

**6A. Arrangement as to holding charge of office of Principal Judge during vacancy :-**

(1) In the event of the office of the Principal Judge falling or remaining; vacant from any cause or in the event of his being prevented for performing his duties due to illness or other cause, the first in rank of the other Judges of City Court shall without interruption to his own duties, assume charge of the office of the Principal Judge and while so in- charge shall perform all the duties and exercise all the powers of the Principal Judge under this Act or any other law for the time being in force.

(2) The Judge so assuming charge shall continue in such charge until the office of the Principal Judge may be resumed or assumed by an officer duly appointed thereto.]

**7. Registrar :-**

(1) The State Government may appoint an officer to be the Registrar of the City Court. He shall be the chief ministerial officer of the Court; and shall exercise such powers, discharge such duties of a ministerial nature as the Judge of the City Court, or when the Court consists of more than one Judge, the principal Judge may, from time to time, by rules, direct.

(2) The State Government may, with the previous approval of the High Court, invest the Registrar with any powers of the Judge of the City Court other than powers of trying suits and proceedings.

**8. Questions arising in suit, etc. under Act to be dealt with according to law administered by District Court :-**

Save as otherwise <sup>1</sup> [provided in this Act and subject to such rules as the High Court may make for the City Court under Art.227 of the

Constitution Of India or Section 122 of the Code of Civil Procedure, 1908 ] (V of 1908) all questions which arise in suits or other proceedings under this Act in the City Court shall be dealt with and determined according to the law for the time being administered by a District Court.

1. These words and figures were substituted for the words "provided In this Act" by Gujarat 32 of 1961, s.2.

### **9. Appeals and Limitations :-**

(1) An appeal shall lie to the High Court from-

(a) every decree passed by the Judge of the City Court, and

(b) such orders passed by such Judge as are specified in, and to the extent provided by, Section 104 of the Code of Civil Procedure, 1908 (V of 1908).

(2) The period of limitation for an appeal from a decree or order of the City Court shall be thirty days from the date of such decree or order and the provisions of the Indian Limitation Act, 1908 (IX of 1908) shall apply as if the said period had been specified by an entry in the first Schedule to that Act.

(3) Nothing in the foregoing provisions of this section shall apply to a decree or orders passed by the City Court in an appeal or revision application under section 20 .

### **10. Seal of City Court :-**

The City Court shall use a seal of such form and dimensions as may be for the time being prescribed by the State Government.

### **11. Holidays and vacation :-**

(1) The Judge of the City Court or when the Court consists of more than one Judge the Principal Judge, shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the Court, and shall submit the same for approval of the High Court.

(2) Such list, when it has received, such approval shall be published in the Official Gazette, and the said holidays and vacation shall be observed accordingly.

<sup>1</sup> [(3) The Judge specified in sub-section (1) may, with the approval of the High Court, make any change in the days to be so observed as holidays or vacation, if at any time after the

publication of such list, circumstances render it necessary for him to do so and such change shall be published in the Official Gazette.]

1. Sub-section (3) was added by Gujarat 31 of 1973, s. 5.

**12. Construction of references to District Court and District Judge in laws operating in City of Ahmedabad :-**

Except where the context otherwise requires any reference to a principal Civil Court of original Jurisdiction, District Court or a District Judge in any law for the time being in force, relating to any matters specified in List II or List III of the Seventh Schedule to the Constitution shall in the case of the operation of that law within the limits of the City of Ahmedabad, be construed as a reference to the Ahmedabad City Civil Court<sup>1</sup>[or the Judge of that Court, or when that Court consist of more then one Judge the Principal Judge of that Court, as the case may be,] and such law shall have effect accordingly. <sup>2</sup> [xxx]

1. These words shall be and shall be deemed always to have been substituted for the words "or the .Judge of that Court as the case may be" by Gujarat 21 of 1964, s. 2.

2. Chapter III deleted by Gujarat 33 of 1980.

**CHAPTER 4**

The Court of Small Causes for the City of Ahmedabad

**17. Act No. XV of 1882 to come into force in the City of Ahmedabad :-**

The Presidency Small Cause Courts Act, 1882, (XV of 1882) shall extend to and come into force in the City of Ahmedabad on and from the appointed day: <sup>1</sup> [Provided that-

(a) with effect on and from the specified date, it shall also extend to and come into force in those areas of the City of Ahmedabad as constituted under the Corporations Act, which were included in the said City under the said Act, after the appointed day, but before the specified date.

(b) with effect on and from the date of inclusion in, or exclusion from, the City of Ahmedabad as defined in clause (2) of section 2 , of any area, by a notification issued under the proviso to that clause, it shall also

1. Provisos added by Gujarat 33 of 1980.

**18. Amendment of Act No. XV of 1882 and Bombay LVII of 1947 :-**

The Presidency Small Cause Courts Act, 1882, (XV of 1882) and the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947, (Bom. LVII of 1947), shall in their application to the City of Ahmedabad stand amended in the manner and to the extent specified in the Schedule.

#### CHAPTER 5

#### Miscellaneous

### **19. Enactments not to be in force in the City of Ahmedabad :-**

With effect on and from the appointed day the Bombay Civil Courts Act, 1869, (Bom. XIV of 1869) and the Provisional Small Cause Courts Act, 1887, (IX of 1887) and all rules, notifications and orders made thereunder shall cease to apply to, or be in force, in the City of Ahmedabad, and the provisions of the Bombay General Clauses Act, 1904, (Bom. I of 1904) as if it were a repeal of an enactment: <sup>1</sup> [Provided that the said Bombay Civil Courts Act, 1869 (Act XIV of 1869) and the Provisional Small Cause Courts Act, 1887 (Act IX of 1887) and all rules, notifications and orders made thereunder shall-

(a) with effect on and from the specified date cease to apply to or be in force in those areas of the City of Ahmedabad as constituted under the Corporations Act which were included therein under the said Act, after the appointed day, but before the specified date;

(b) with effect on and from the date of inclusion in, or exclusion from, the City of Ahmedabad as defined in clause (2) of section 2 of any area by notification issued under the proviso to that clause, cease to apply to or be in force in the areas so included in the said City, or apply to or be in force in the areas so

1. Provisos added by Gujarat 33 of 1980.

### **20. Special provisions for transfer of pending proceedings :-**

(1) All suits and proceedings cognizable by the City Court and pending immediately before the appointed day in the District Court or the Court of a Civil Judge shall stand transferred to the City Court.

(2) All suits and proceedings pending immediately before the appointed day in the Court of Small Causes, Ahmedabad, constituted under the Provincial Small Cause Courts Act, 1887 (IX of 1887) shall-

(i) if they are cognizable by the Court of Small Causes of Ahmedabad constituted under the Presidency Small Cause Court Act, 1882, (XV of 1882) stand transferred to that Court; and

(ii) if not so cognizable be transferred to the court competent to take cognizance of such suits or proceedings.

(3) All criminal proceedings cognizable by the Court of Session for the City of Ahmedabad and pending in the Court of Session at Ahmedabad as constituted immediately before the appointed day shall stand transferred to the Court of Session for the City of Ahmedabad.

(4) All criminal proceedings pending before any Magistrate and cognizable by a magistrate appointed under section 14 shall stand transferred to the Chief Magistrate appointed under section.

(5) An appeal or revision application against any judgment, decision, decree or order passed before the appointed day by a Court in the exercise of jurisdiction over the area within the limits of the City of Ahmedabad,-

(i) if it was pending immediately before the appointed day in a competent Court, shall stand transferred to the Court corresponding to the competent Court, and

(ii) if before the appointed day it has not been preferred within the period of limitation to a competent Court, shall lie within that period to the Court corresponding to the competent Court.

(6) A proceeding, appeal or revision application transferred to any Court under the foregoing provisions of this section shall be disposed of by such Court as if it were the Court from which such proceeding, appeal or revision application was so transferred.

(7) All applications for the execution or enforcement of a decree or order made before the appointed day by any court which has been superseded or has ceased to exist by virtue of the provisions of this Act, and all other applications arising out of the said decree or order shall be made to and disposed of by the City Court.

Explanation.-For the purpose of sub-section (5), "competent Court" means the District Court, the Court of Civil Judge or the Court of Session at Ahmedabad functioning before the appointed day and the City Court shall be a Court corresponding to the said District Court or the Court of Civil Judge and the Court of Session for the

City of Ahmedabad shall be a Court corresponding to the said Court of Session at Ahmedabad.

**21. Amendment of certain Acts in their application to the City of Ahmedabad :-**

The Bombay Pleaders Act, 1920 (Born. XVII of 1920),<sup>1</sup> [x x x] and the Code of Civil Procedure, 1908 (V of 1908), shall in their application to the City of Ahmedabad stand amended in the manner and to the extent specified in the Schedule].

1. Deleted by Gujarat 33 of 1980.

**22. Construction of reference to City of Ahmedabad in Acts :-**

Except where the context otherwise requires, any reference to the City of Ahmedabad in any law for the time being in force other than the Corporations Act shall, in so far as such law relates to the jurisdiction, powers and procedure of civil courts within the limits of the City of Ahmedabad, be deemed to be a reference to the City of Ahmedabad as defined in clause (2) of section 2 .

**23. Special provisions for transfer or continuance of pending proceedings on inclusion of area :-**

(1) All suits and proceedings (other than appeals or revision applications) cognizable by the City Court which may be pending immediately before the specified date or as the case may be, the date of inclusion in the City of Ahmedabad, of any area by a notification under the proviso to clause (2) of section 2 (hereinafter in this section referred to as "the date of inclusion") in a District Court or the Court of a Civil Judge shall stand transferred to the City Court.

(2) All suits and proceedings cognizable by the Small Cause Court which may be pending immediately before the specified date or, as the case may be, the date of inclusion, in the Court of a Civil Judge shall stand transferred to the Small Cause Court.

(3) An appeal or revision application against any judgment, decision, decree or order passed before the specified date or as the case may be, the date of inclusion by a Civil Court in the exercise of jurisdiction over any area within the limits of the City of Ahmedabad as defined in clause (2) of section 2 as amended by the Amending Act shall-

(i) if it was pending immediately before the specified date or, as

the case may be, the date of inclusion in any District Court or Court of any Civil Judge other than City Court, stand transferred to the City Court, and

(ii) if before the specified date or, as the case may be, the date of inclusion it has not been preferred within the period of limitation to a competent Court, lie within that period to the City Court.

(4) A proceeding, appeal or revision application transferred to any court under the foregoing provisions of this section shall be disposed of by such Court, as if it were the Court from which such proceeding, or appeal or revision application was so transferred.

**24. Special provision for transfer or continuance of pending proceedings on exclusion of area :-**

(1) All suits and proceedings of civil nature which may be pending in the City Court or the Small Cause Court immediately before the date of exclusion of any area from the City of Ahmedabad as defined in clause (2) of section 2 by a notification under the proviso to that clause (hereinafter in this section referred to as "the date of exclusion") but which would, after such date of exclusion, become cognizable by a District Court, a Court of Civil Judge or the Small Cause Court as a result of the exclusion of such area from the City of Ahmedabad as so defined shall stand transferred to such District Court or, such Court of the Civil Judge, or as the case may be, Small Cause Court.

(2) A proceeding, appeal or revision application transferred to any Court under the foregoing provisions of this section shall be disposed of by such Court as if it were the court from which such proceeding, or appeal or revision application was so transferred.

**25. Removal of doubt :-**

For the removal of doubt it is hereby declared that the Court established for the City of Ahmedabad under section 3 shall be deemed to be a Court established for the City of Ahmedabad as defined in clause (2) of section 2 as amended by the Amending Act and that the Judges of the said Court appointed as such Judges and holding office as such immediately before the specified date shall be deemed to have been appointed for the City of Ahmedabad so defined.]

[See section 18 and section 21 ]] Amendments to the Presidency Small Cause Courts Act, 1882, in its Application to the City of Ahmedabad. [1. After section 1 , the following section shall be Inserted, namely:- "1A. Extent and commencement in the City of Ahmedabad. -This Act shall extend to, and come into force in the City of Ahmedabad on the date on which the Ahmedabad City Courts Act, 1961 (Gujarat XIX of 1961), comes into force: Provided that- (a) with effect on and from the date of the commencement of the Ahmedabad City Courts (Amendment) Act, 1980 (Gujarat 33 of 1980), it shall also extend to and come in force in those areas of the City of Ahmedabad as constituted under the Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949), which were included in the said City under the latter Act after the appointed day, but before the date of the commencement of the former Act, (b) with effect on and from the date of inclusion of or exclusion from, the City of Ahmedabad as defined in clause (2) of section 2 of the Ahmedabad City Courts Act, 1961 (Gujarat XIX of 1961), of any area by a notification issued under that clause, it shall also extend to and come into force in the area included in the said City, or as the case may be, cease to extend to and be in force in the area excluded from the said City by such notification; Provided further that the provisions of the Bombay General Clauses Act, 1904 (Bom. I of 1904), shall, save as otherwise expressly provided in the Ahmedabad City Courts Act, 1961 (Gujarat XIX of 1961), apply to such cesser in any area as aforesaid as if it were repeal of an enactment.] 2. In section 4 . after the words "as the case may be" the words "or In the City of Ahmedabad" shall be inserted. [x x x] 3. Section 5 shall be renumbered as sub-section (1) of that section and after sub-section (1) so renumbered, the following sub-section shall be inserted, namely:- "(2) In the City of Ahmedabad there shall be a Court to be called the Court of Small Causes of Ahmedabad." 4. Section 6 shall be renumbered as sub-section (1) of that section and after sub-section (1) so renumbered the following sub-section shall be inserted, namely:- "(2) The Court of Small Causes of Ahmedabad shall be deemed to be a court subject to the superintendence of the High Court of Gujarat and to be a court subordinate to that High Court within the meaning of S.6 of the Legal Practitioners Act, 1879, and that High Court shall have in respect of the Small Cause Court of Ahmedabad the same powers as it has in respect of the courts subject to its appellate Jurisdiction." 5. In section 16 for the words "High Court" the words "Ahmedabad City Civil Court" shall be substituted. 6. Section 17 shall be renumbered as sub-section (1) of that section and In that section:- (i) in sub-section (1) so renumbered for the words "The local limits" wherever they occur for the first time, the words, brackets and figure "Save as otherwise provided in sub-section (2), local limits" shall be substituted: (ii) after, sub-section (1), the following sub-section shall be inserted, namely:- "(2) The local limits of the jurisdiction of the Court of Small Causes of Ahmedabad shall be the local limits of the City of Ahmedabad". 7. In section 21 .- (a) the words "and all suits whereof the amount of the value of the subject matter exceeds one thousand rupees" shall be deleted. and (b) for the words "High Court" the words "Ahmedabad City Civil Court" shall be substituted. 8. For section 22 the following shall be substituted, namely:- "22. Costs when Plaintiff sue in Ahmedabad City Civil Court in other cases cognizable by Small Cause Court.-In any suit instituted in the Ahmedabad City Civil Court, other than a suit to which section 21 applies, if the Judge, who tries .it is of the opinion that it ought to have been instituted in the Small Cause Court then- (a) if the Plaintiff does not obtain a decree, the Defendant shall be entitled to his costs and may also be awarded such additional amount not exceeding one thousand rupees by way of compensation as the Judge may award; or (b) if the Plaintiff obtains a

decree for any matter of an amount or value less than two thousand rupees, no costs shall be allowed to the Plaintiff". 9. In section 31 , in clause (a) after the words "or Bombay" the words "or the Ahmedabad City Civil Court" shall be Inserted. 10. Section 39 and section 40 shall be deleted. 11. In section 47 . for the words "the occupant binds himself the words "the occupant, at the earliest opportunity, and In any event before filing any statement of defence, binds himself" and for the words "High Court" the words "Ahmedabad City Civil Court" shall be substituted. 12. In section 49 , for the words "High Court" the words "Ahmedabad City Civil Court" shall be substituted. 13. In section 50 , after the words "and Bombay" the words "and to every place within the City of Ahmedabad" shall be inserted. 14. In section 60 ,- (1) the first sentence shall be numbered as sub-section (1) and in that sub-section so numbered for the words "five days" the words "fifteen days" shall be substituted and to that sub-section, the following proviso shall be added, namely:- "Provided that where the Judge is satisfied that there is sufficient cause for extending the period within which an application may be made under this sub-section, he may extend the period of such extent as he may consider necessary"; (2) the second sentence shall be numbered as sub-section (2). 15. In section 61 for the words "High Court" at both the places where they occur, the words "Ahmedabad City Court" shall be substituted. 16. In section 63 for the words "High Court" wherever they occur, the words "Ahmedabad City Civil Court" shall be substituted. 17. In section 64 .- (1) for the words "High Court" the words "Ahmedabad City Civil Court" shall be substituted: (2) for the words "at the expiration of five days from the seizure of property under this chapter" the following words, brackets and figures shall be substituted, namely:- "at the expiration of fifteen days from the seizure of property under this chapter, or as the case may be, of the extended period under the proviso to sub-section (1) of section 60 ." 18. Section 73 shall be renumbered as sub-section (1) of that section and in sub-section ( 1 ) so renumbered after the words "have been respectively paid" the following proviso and sub-section shall be inserted, namely- "Provided that no such fees shall be repaid if the amount of institution fee on the plaint or application does not exceed five rupees or the claim for repayment is not made within one year from the date on which the suit or proceeding was so settled. (2) The State Government may, from time to time, by order provide for repayment to the Plaintiffs or applicants of any part of the fees paid on claims or applications by them in suits or proceedings, as the case may be, disposed of under such circumstances and subject to such conditions as may be specified on the order". 19. In section 92 , for the words "State Government" the words "High Court" shall be substituted. 20. In section 93 , for the words "and West Bengal", the words "West Bengal and Gujarat" shall be substituted. 21. In the third Schedule, for the words "four annas per day" the words "such fee not exceeding seventy five naye paise per day as may be fixed by the Registrar of the Small Cause Court" shall be substituted. \ \AMENDMENTS TO THE BOMBAY RENTS, HOTEL \ AND LODGING HOUSE RATES CONTROL ACT, 1947, \ IN ITS APPLICATION TO THE CITY OF AHMEDABAD. 1. In section 28 , in sub-section (1) before clause (aa) the following clause shall be inserted, namely:- "(a) in the City of Ahmedabad, the Court of Small Causes of Ahmedabad." 2. In section 29 ,- (1) in sub-section (1),- (a) before clause (b). the following clause shall be inserted, namely:- "(a) in the City of Ahmedabad, from a decree or order made by the Court of Small Causes, Ahmedabad, exercising jurisdiction under section 28 , to a bench of two judges of the said Court which shall not include the judge who made such decree or order,"; (b) in clause (b) for the words "from a decree" the words "elsewhere from a decree" shall be substituted; (c) in the proviso in clause

II, A. before sub-clause (ii), insert the following sub-clause, namely- "(i) where such suit or proceeding is instituted in the City of Ahmedabad, two thousand rupees,"; and B. in sub-clause (Ii), for the words "the amount up to" the words "where such suit or proceeding is instituted elsewhere the amount up to" shall be substituted. (2) in sub-section (3), after the words, "in any suit or proceeding" the words "in the City of Ahmedabad the bench of two judges specified in clause (a) of sub-section (1) and elsewhere" shall be Inserted. [Amendments to the Bombay Pleaders Acts, 1920, in its application to the City of Ahmedabad. (i) In section 18 , after sub-section (1) the following shall be inserted namely:- "(2) Nothing contained in sub-section (1) of this section or in section 20 shall apply to fees payable to pleaders in the Court of Small Causes of Ahmedabad." (ii) In section 23 , for the words "subordinate to the High Court" the words "other than the Court of Small Causes of Ahmedabad subordinate to the High Court" shall be substituted. [x x x] Amendment to the Code of Civil Procedure 1908, in its application to the City of Ahmedabad. (i) In section 8 , after the words "Calcutta, Madras and Bombay." the words "and In the City of Ahmedabad" shall be inserted.