

BOMBAY PLEADERS ACT, 1920

17 of 1920

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BOMBAY PLEADERS ACT, 1920

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An Act to consolidate and amend the Law relating to pleaders in the Presidency of Bombay. WHEREAS it is expedient to consolidate and amend the law relating to pleaders in the presidency of Bombay; and whereas the previous sanction of the Governor General required by Section 79, sub-section (2), of the Government of India Act, 1915, has been obtained for the passing of this Act. It is hereby enacted as follows

1. Short Title and extent :-

(1) This Act may be called the Bombay Pleadings Act, 1920.

(2) It extends to the whole of the State of Maharashtra.

1 (3) In that part of the state of Bombay to which it is extended by the Bombay Pleadings (Extension and Amendment) Act, 1958, it shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

1. Sub-section (3) stands unmodified by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960.

2. Definitions :-

In this Act, unless there is anything repugnant in the subject or context,-

(1) "the High Court" means the High Court of Judicature at Bombay;

(2) "Court subordinate to the High Court" means any court, tribunal, or person whose decree, order, decision, or award is, or

may hereafter be, subject to the appellate or revisional jurisdiction of the High Court;

(3) "Pleader" means a Pleader admitted under this or any previous Act, and includes an attorney of the High Court appearing, pleading or acting for a client, elsewhere than in ¹ [the Greater Bombay], but nothing in Sections 3, 4, 5, 6, 11, 12, 13, 24, 25, 27, 30 shall apply to an attorney of the High Court;

(4) "district" means the local limits of the jurisdiction of a principal civil court of original jurisdiction other than the High Court;

(5) "the Letters Patent" means the Amended Letters Patent of the High Court of Judicature for the Presidency of Bombay, dated the 28th December 1865 subject to any amendments thereto and alterations therein made or hereinafter to be made pursuant to clause 44 thereof or Section 106(1 A) of the Government of India Act;

(6) "prescribed" means prescribed by rules made under this Act.

1. These words were substituted for the original by Bom. 17 of 1945, s. 9, Sch. E, read with Bom. 52 of 1947, s. 2 proviso.

3. Classes of pleaders :-

Repealed by Act 25 of 1961, Section 50(2)(b)

4. Sanads :-

Repealed by Act 25 of 1961. Section 50(2)(b)

5. Extent and transfer of sanads :-

(1) No district Pleader shall hold a sanad in respect of more than one district at the same time:

¹ Provided that when a district for which a sanad is to be issued comprises any area which for the purposes of administration of revenue or criminal justice or both is also included in any other district the sanad may be held in respect of both such districts.

(2) On the application of a district Pleader holding a sanad which is available for any [* * *] district the High Court may from time to time, by endorsement on such sanad, render the same available for any other district.

(3) A Pleader holding a sanad in respect of any district may appear, plead and act for a client in any particular civil proceeding in a

Court of any other district with the previous written authority of the District Judge in such other district.

1. This proviso was inserted, by Bom. 17 of 1945, s. 3 (1).

6. Conditions of admission :-

Repealed by Act 25 of 1961, Section 50(2)(b)

7. Where Vakils of High Court are entitled to practise :-

(1) Subject to the provisions of any law for the time being in force and. with respect to the right of vakils of the High Court to practice in the High Court, subject to any rules for the time being in force under clause 10 of the Letters Patent, a vakil of the High Court shall be entitled to practice-

(a) in the High Court;

(b) in any court subordinate to the High Court;

(c) before the tribunal of appeal constituted under the [City of Bombay Improvement Act, 1898;

(d) in or before any other Court, tribunal or person in or before which or whom vakils of the High Court are or may hereafter be entitled by law to practice; and

(e) before any public officers in any of the following proceedings:- an investigation held in accordance with the first paragraph of Section 73 and an appeal under Section 77 of the Bombay Hereditary Offices Act; proceedings under Section 87. of the Bombay Land Revenue Code. 1879; proceedings before a Tribunal of Arbitration under the Bombay Town Planning Act, 1915; such proceedings under any enactment in force, in the [area to which this Act extends] as the [[State] Government], by notification in the [Official Gazette] may specify.

(2) The provisions of sub-section (1) shall apply, mutatis mutandis, to attorneys of the High Court.

8. Where district pleaders are entitled to practice :-

[[1]] Subject to the provisions of any law for the time being in force [and save as provided in sub-section (2)] district Pleader shall, within the district [or districts] in respect of which he holds a sanad, be entitled to practice-

(a) in such civil court or courts as the District Judge may from time

to time assign to him;

[(b) in such criminal court or courts as the Sessions Judge may from time to time assign to him;]

(c) in or before any other Court, tribunal or person in or before which or whom district pleaders are or may hereafter be entitled by law to practice; and

(d) before any public officer in any of the following proceedings:- an investigation held in accordance with the first paragraph of Section 73 and an appeal under Section 77 of the Bombay Hereditary Offices Act; proceedings under Section 87. of the Bombay Land Revenue Code, 1879; proceedings before a Tribunal of Arbitration under the Bombay Town Planning Act, 1915; such proceedings under any enactment in force, in the [area to which this Act extends] as the [[State] Government], by notification in the [Official Gazette] may specify.

(2) Subject to the provisions of any law for the time being in force, the High Court may issue sanads restricting the right of practice to certain Courts in a district or certain classes of cases or the right of pleading in such courts, in the manner mentioned below and the right to practice shall be determined accordingly :-

(a) Mukhtars in the former State of Madhya Pradesh who have been admitted as pleaders under the rules framed by the former High Court of Nagpur under the Legal Practitioners Act, 1879 may be issued sanads restricting their right to plead only with the previous permission of the Court concerned.

(b) Pleaders of the III Grade admitted under the rules framed by the former Hyderabad High Court under the Legal Practitioners Act, 1879 may be issued sanads restricting their right to practice only in Civil and Criminal Courts inferior to the District and Sessions Court and before the Revenue and Public Officers inferior to the Collector.

(c) Mukhtars of Class II admitted under the rules framed by the former Saurashtra High Court under the Legal Practitioners Act, 1879 and under the High Court of Judicature Ordinance for the State Of Saurashtra, 1948 may be issued sanads restricting their right of practice only to the Civil Courts, inferior to the District Court and to cases triable by the Civil Judge, Junior Division, only. Such sanads may also restrict the right to practice in Criminal Courts inferior to Sessions Court.]

8A. Right to issue restricted Sanads to non qualified pleaders practicing in Indian States :-

Subject to the provisions of any law for the time being in force, the High Court may issue sanads restricting the right of practice to any specified court or courts in favour of non-qualified (sanadi) pleaders practicing in the Indian States in the Schedules to the Administration of the Indian States Order, 1948, and who held temporary sanads or who put in less than 10 years practice at the date of the merger of the States in which they are practiced. The right to practice in respect of pleaders with such restricted sanads shall be determined accordingly.]

9. Appearance in civil court by authorised person for bidden :-

No person shall appear, plead or act for any party in any civil proceeding in any Court unless he is a Pleader as defined in this Act and is entitled and duly empowered to appear, plead and act for such party in such proceeding:

Provided that nothing in this Section shall apply-

(a) to any party appearing, pleading or acting on his own behalf, or appearing or acting by his recognised agent as defined in rule 2, Order III, of the Code of Civil Procedure, 1908, or

(b) to any advocate of the High Court.

10. Cases in which vakalatnama is required :-

Repealed by Act 22 of 1926, s. 3.

11. Retaining fee :-

(1) A party engaging a Pleader shall pay him a retaining fee of an amount not less than one rupee.

(2) Where a party fails so to do, the Pleader shall demand such fee and shall not perform any services for such party until the fee has been paid.

(3) Every Pleader receiving such fee [shall, at the time when such fee is received by him give] a receipt in writing for the same, specifying the date of receipt.

12. Pleader not to act for party adverse to his client, and not to refuse to act for his client without the permission of the Court :-

No Pleader after accepting a retaining fee shall without the permission of the Court-

(a) appear, plead or act, or agree so to do, on behalf of any other party whose interest in the case is adverse to that of his client, or

(b) refuse or omit to appear, plead or act for his client.

13. Receipt to be given for documents :-

Every Pleader receiving a document of any kind from his client shall

(a) on demand give a receipt in writing for such document at the time when he receives it, and

(b) subject to the provisions of Section 30 return such document if his client requires the same and give a receipt in writing therefore.

14. Pleaders bound to attend on day fixed for proceeding except in certain cases :-

(1) A Pleader shall be bound to attend in court on any day which, by notice duly given or in accordance with the practice of the court, is fixed for the hearing of a proceeding in which he is employed.

(2) Where a Pleader employed in any such proceeding is, from indisposition or any other reasonable cause, unable to attend on such day or at the time when the proceeding is called on, he shall notify the same to the court and thereupon the proceeding shall be stayed for such time as the court may deem reasonable:

Provided that in proceedings in which a party is represented by more than one Pleader and one of such pleaders is present, the court may proceed therewith.

(3) In any proceeding in which a Pleader ceases, temporarily or permanently, to act for his client, because he has accepted Government service, or has been permitted to withdraw from the proceeding, or has been suspended or dismissed, or has died, or for any other reason, the proceeding shall be stayed for such time as the court may deem reasonable.

15. Pleaders not to give or take commission :-

No Pleader shall tender, give, retain or consent to retain any gratification for procuring or having procured the employment of himself or of any other Pleader in any legal business.

16. Pleaders not to take instructions except from client or

authorised agent, or accept employment through a tout V of 1908 :-

No Pleader shall:

(a) take instructions in any proceeding except from the party on whose behalf he is retained or from some person who is within the meaning of the Code of Civil Procedure, 1908, the recognised agent of such party, or from some person authorised by such party to give such instruction, or

(b) accept any employment in any legal business through a person who has been proclaimed as a tout.

17. Fee may be settled by private agreement :-

Repealed by Act 21 of 1926, s.6.

18. Computation of leased fee :-

(1) Where costs are awarded to a party in any proceeding, the amount of the pleaders fee to be taxed in the bill of costs as recoverable by such party, if represented by a Pleader, from his adversary, shall be computed in accordance with the rules in Schedule III unless such fee has been settled under the provisions of Section [of the Legal Practitioners (Fees) Act, 1926] for a lesser amount in which case no more than such lesser amount shall be recoverable.

(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 Bombay.

19. Amount payable by client to Pleader :-

Repealed by Act 21 of 1926, s. 6.

20. When fees of two pleaders may be taxed :-

(1) When a party has, before the first hearing of a proceeding, engaged more than one Pleader, the fees of two pleaders may be taxed in the bill of costs in the following cases:-

(a) In any original suit, of which the amount or value of the subjectmatter exceeds Rs. [10,000], in any court subordinate to the High Court;

(b) In any contested proceeding under the [Indian Succession Act, 1865, the [Probate and Administration Act, 1881, or the [Land Acquisition Act, 1894 of which the amount or value of the subject

matter exceeds [Rs. 10,000], in any court subordinate to the High Court;

(c) In any appeal to the High Court, from a decree deciding on the merits any suit or any contested proceeding of the kind referred to in clause (a) or clause (b);

(d) In any suit of which the amount or value of the subject-matter [Rs. 10,000 or less] where the court certifies by order in writing that the fees of two pleaders may be taxed:

Provided that nothing in this Section shall effect suits or appeals by paupers, or suits or appeals governed by the Dekkhan Agriculturists Relief Act, 1879.

(2) Except in the cases specified in this Section, a party employing more than one Pleader shall not be entitled to recover from his adversary more than one set of Pleader's fees.

21. Cases where there are several parties having the same interest or putting forward the same defence :-

Where in any proceeding there are several parties having the same interests or putting forward the same defence they shall not, if awarded costs, be allowed more than one set of pleaders fees on party and party taxation unless the Court otherwise directs.

22. Taxation of costs in appeals to High Court :-

In any civil appeal or application to the High Court from the decree or order of a Court, subordinate to the High Court, if costs between party and party are awarded by the High Court, such costs shall be taxed by an officer of the High Court and included in the bill of costs attached to the decree or order of that Court in the prescribed manner.

23. Taxation of costs of courts :-

In any court subordinate to the High Court situate elsewhere than in ¹ [the Greater Bombay] the amount of the Pleader's fee to be taxed on the bill of costs attached to the decree or order of that Court shall not be in excess of the amount computed in accordance with the rules in Schedule III:VII of 1913.

Provided that nothing in this Section shall apply to bills of costs framed under the provisions of the [Indian Companies Act, 1913.

1. These words were substituted for the original by Bom. 17 of 1945, s. 9, Sch. E, read with Bom, 52 of 1947, s. 2. proviso.

24. Suspension or removal of Pleader by High Court on conviction of criminal offence :-

Repealed by Act 25 of 1961, Section 50(4)(b).

25. Punishment of Pleader by High Court for improper conduct :-

Repealed by Act 25 of 1961, Section 50(4)(b).

26. Powers of District Court or Court of Session in respect of improper conduct of Pleader :-

Repealed by Act 25 of 1961, Section 50(4)(b).

27. Conduct of case in High Court against Pleader :-

Repealed by Act 25 of 1961, Section 50(4)(b).

28. Recovery of taxed fees :-

Legal proceedings against pleaders not affected Repealed by Act 21 of 1926, s. 6.

29. Recovery of taxed fees :-

A Pleader whose bill of cost has been taxed may apply to the Court by which or by whose officer the same has been taxed for an order against his client for the sum allowed on taxation or such sum as may remain due. The Court may make such order or may refer the Pleader to a suit. Any such order may be executed under order 21 of the Code of Civil Procedure, 1908, as a decree for money.

30. Lien for taxed fees :-

In every matter in which costs are due to a Pleader by his client which have been or are capable of being taxed, the Pleader shall as against his client be entitled to a lien for the amount of such costs, as taxed, upon-

(a) all documents come into his possession in the course of his engagement in connection with such matter, and for which he has given a receipt in accordance with the provisions of section 13 (a) and.

(b) all movable property recovered or preserved by his exertions in such matter.

31. Rules :-

(1) The High Court may make rules consistent with the provisions of this Act-

(a) prescribing the qualifications and mode of admission of pleaders

and the fees payable for admission;

(b) prescribing the fees payable in respect of examinations (if any) held for the office of Pleader;

(c) regulating, and providing for the recognition of, bar associations and for granting sanction to the rules of such associations;

(d) requiring that a Pleader shall be a member of, and submit to the rules of, a bar association;

(e) requiring that a Pleader shall be a member of, and subscribe to, the law library attached to the principal Court in which he practices;

(f) providing for the taxation of costs between party and party;

(g) providing for the allowance and taxation of costs between Pleader and client whether in litigious or non-litigious business;

(h) prescribing, in lieu of the forms in Schedule II, the form of sanad to be given to pleaders and the form of vakalatnamas;

(i) prescribing, in lieu of or in addition to the rules in Schedule III, the manner in which the Pleader's fee shall be computed, and the amount of the Pleader's fee, and determining the amount or value of the subject matter in particular classes of cases or in cases generally, for the purpose of calculating the Pleader's fee;

(j) prescribing the manner in which costs in appeals or applications to the High Court from decrees or orders of courts subordinate to the High Court shall be taxed, in cases where costs between party and party are awarded by the High Court;

(k) fixing the scale of costs which may be awarded in cases under sub-section (2) of Section 27;

(l) generally, to give effect to such provisions of this Act as may require to be provided for by rules.

(2) Where the High Court prescribes any new forms in lieu of the forms in Schedule II, or makes any new rules in lieu of or in addition to the rules in Schedule III, such new forms or rules respectively shall on publication be deemed to be enacted in such Schedule in lieu of or in addition to the forms or rules now therein enacted.

(3) All rules made under this Act shall be published in the ¹ [Official Gazette] and shall thereupon have effect as if enacted in this Act.

1. These words were substituted for the original by Bom. 17 of 1945, s. 9, Sch. E, read with Bom, 52 of 1947, s. 2. proviso.

32. Savings :-

Nothing in this Act shall be deemed to limit or otherwise affect the powers conferred upon the High Court by Sections 106 and 107 of the Government of India Act, 1915, or by clauses 9 and 10 of the Letters Patent or by any law for the time being in force. 5 and 6, Gco. 5, c.61.

33. Pending cases :-

Nothing in this Act regarding the appointment, appearance or remuneration of pleaders or the taxation of costs shall apply in respect of any proceedings pending in any court at the commencement of this Act, and all such proceedings, until their final disposal by the court in which they are pending, shall be governed, in respect of such matters, by the laws and rules in force immediately before the commencement of this Act.

34. Repeal :-

The enactments mentioned in Schedule I are hereby repealed to the extent specified in the third column thereof.

SCHEDULE 1 SCHEDULE

SCHEDULE I.		
(See Section 34.)		
No. and date of enactment	Title	Extent of repeal
Bombay Regulation II of 1827.	A Regulation for defining the constitution of the Courts of Civil Justice and the Powers and Duties of the Judges and Officers thereof.	So much as has not already been repealed, excepting the part of section 21 which prohibits interference of the Civil Courts in caste questions.
Act I of 1846	An Act for amending the law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company.	The whole, excepting Section 5.
Act XX of 1853	An Act to amend the	Section 2

Act No. 10 of 1939	Amended the law relating to Pleaders in the Courts of the East India Company.	Section 21
<p style="text-align: center;"><u>SCHEDULE 2</u> SCHEDULE</p> <p style="text-align: center;"><u>SCHEDULE 3</u> SCHEDULE</p>		
<p style="text-align: center;">SCHEDULE 3</p> <p style="text-align: center;">(See Section 18.)</p> <p style="text-align: center;">Rules for computing the Pleader 's fee.</p> <p>I.- [Subject to the provisions of rule VI]-</p> <p>(a) in suits which decide on the merits the real dispute between the parties,</p> <p>(b) in appeals from decrees (including preliminary decrees) other than appeals from execution proceedings, which decide on the merits the real dispute between the parties,</p> <p>(c) in applications or proceedings under the</p> <p>(i) Indian Succession Act, 1925, excepting application or appeals falling under sub-clauses (ii) and (iii) of clause (e) of rule V.</p> <p>(ii) Land Acquisition Act, 1894. the amount of the Pleader's fee shall be computed on the amount or value of the subject matter in dispute in the suit, appeal, application or proceedings at the rates specified below</p> <p>If the amount or value of the subject matter in duplicate does not exceed Rs. 2,000 at 5 per cent.</p> <p>If the amount or value exceeds Rs. 2,000 but does not exceed Rs. 5,000 on Rs. 2,000 as above and on the remainder at 3 per cent.</p> <p>If such amount or value exceeds Rs. 5,000 but does not exceed Rs. 10,000 on Rs. 5,000 as above and on the remainder at 2 per cent.</p> <p>If such amount or value exceeds Rs. 10,000 but does not exceed Rs. 20,000 on Rs. 10,000 as above and on the remainder at 1 per cent.</p> <p>If such amount or value exceeds Rs. 20,000 on Rs. 20,000 as above and on the remainder at per cent.</p> <p>[Exception:</p> <p>- [Subject as aforesaid] the amount of pleaders' fees in a suit, appeal application, or proceeding between landlord and tenant shall be calculated on the amount or value of the claim for the purposes of Court fees and not on the amount or value of the claim for the purposes of jurisdiction:</p>		

Provided that the amount may at the discretion of the Court be calculated on the amount or value of the claim for the purposes of jurisdiction when the Court is of opinion, having regard to the labour involved in the preparation of the case or to the complexity of the issues arising therein, that the higher rate of valuation is appropriate.]

II.

- [Subject to the provisions of rule VI]-(a) in appeal from orders,
(b) in civil applications or proceedings other than applications and proceedings necessary for the progress of a suit or appeal and other than the applications proceedings or appeals falling under rules I, VI and V, and
(c) in all other cases not otherwise provided for, the amount of the pleaders' fee to be allowed shall be one forth of that payable according to the rates specified in rule I.

III.

[Subject to the provisions of rule VI] the fee prescribed in rules I and II shall be taken to be the remuneration for the Pleader's services until the final decree or order in the suit, appeal, application, reference or proceeding, is passed.

IV.

[Subject to the provisions of rule VI, the Pleader's fees to be allowed in execution proceedings] be one-fourth of the fee calculated at the rates specified in rule I on the amount or value of the relief or money claimed in the application to execute the decree. [Such fee shall be chargeable on the first application and on every subsequent contested application.]

V.

[Subject to the provisions of rule VI]-

(a) in any reference made to the High Court under Section 113 of the Code of Civil Procedure, 1908,

(b) in any civil application to the High Court under Section 115 of the said Code,

(c) in any application to the High Court under Section 25 of the provincial Small Causes Courts Act, 1887,

(d) in any application for the exercise of the High Court's Extraordinary jurisdiction in civil matters,

(e) in all applications or appeals under-(i) the Guardians and Wards Act, 1890,

(ii) Part X of the Indian Succession Act, 1925, (iii) Part VII of the Indian Succession Act, 1925, (iv) the Indian Trusts Act, 1882,

(v) the Provincial Insolvency Act, [1920],

(vi) any other special or local Act,

a sum of Rs. 30 shall be allowed as the Pleader's fee.

VI

- In all suits, appeals, applications or proceedings in which a commission is issued under the provisions of Section 75 of the Civil Procedure Code the Pleaders fee shall consist of-

(a) an amount computed in accordance with whichever of rules I to V would applicable to the suit, appeal, application or proceeding but for the issue of the commission.

(b) and such fees not exceeding Rs. 20 per day for appearing before the Commissioner as the Court may in its discretion allow:

Provided

(i) that no fees shall be allowed for appearing before the Commissioner if the Court when issuing the commission certifies that the presence of a Pleader before the Commissioner is not necessary.

(ii) and provided further that no fees shall be allowed for appearing before a Commissioner in the town or village which is the headquarters of the Court issuing the Commission.]

VII.

- In no case, whether specially provided for in this Schedule or otherwise, shall the Pleader's fee payable in any civil suit, appeal, application or proceeding other than execution proceedings be less than-

(a) Rs. 30 in the High Court,

(b) Rs. 15 in a District Court,

(c) Rs. 15 in the Court of a Subordinate Judge subject to the provisions of clause (d) and the proviso below,

(d) Rs. 5 in the Court of a Subordinate Judge, in suits of the nature cognizable by a Court of Small Causes, or in the Court of a Jagirdar or Inamdar exercising jurisdiction under Bombay Regulation XIII of 1830 and Act XV of 1840, or in the Court of a Mamlatdar under the Mamlatdar's Courts Act, 1906:

Provided that suits by a superior holder for the recovery of his dues in the Court of a subordinate Judge shall be governed by clause (d) and not by clause (c), unless in the opinion of the Court the suit involves questions of a complicated nature affecting title to land:

[Provided further that if a Commission is issued under the provisions of Section 75, Civil Procedure Code, in the suit, appeal, application or proceeding, in calculating for the purposes of this rules the Pleader's fee payable in such suit, appeal, application or proceeding, the fees payable

under the provisions of rule VI, clause (b) shall be excluded.]

VIII.

- A surcharge of 25 per cent, shall be allowed on the fees prescribed herein above:

Provided that in suits and proceedings referred to in clause (a) and (b) of sub-section (1) of section 20 of the Act no such surcharge shall be allowed except when only one Pleader is engaged.]