

THE PUNJAB FAMILY COURTS (AMENDMENT) BILL 2015

Bill No. 14 of 2015

A BILL

further to amend the Family Courts Act, 1964

Whereas it is expedient further to amend the Family Court Act, 1964 (XXXV of 1964), for purposes hereinafter appearing;

It is enacted as follows:

1. Short title and commencement.— (1) This Act may be cited as the Punjab Family Courts (Amendment) Act 2015.

(2) It shall come into force at once.

2. Amendment in section 1 of Act XXXV of 1964.— In the Family Courts Act, 1964 (XXXV of 1964), hereinafter referred to as “the said Act”, in section 1, for subsection (2), the following shall be substituted:

“(2) It shall extend to whole of the Punjab.”

3. Amendment in section 2 of Act XXXV of 1964.— In the said Act, in section 2, in subsection (1):

(a) for clause (c), the following shall be substituted:

“(c) “Government” means Government of the Punjab;” and

(b) in clause (e), for full-stop, a semi-colon shall be substituted and, thereafter, the following clauses (f) and (g) shall be inserted:

“(f) “Schedule” means the Schedule appended to the Act; and

(g) “Union Council” means a Union Council, Municipal Committee, Cantonment Board, Union Administration or, in case of absence of any of these local governments in a local area, any other comparable body or authority constituted under any law relating to the local governments or local authorities;”.

4. Amendment in section 3 of Act XXXV of 1964.— In the said Act, in section 3:

(a) in subsection (1), in the proviso, for the expression “Federal Government may, on the request of Provincial Government, extend” the expression “Government may extend” shall be substituted; and

(b) in subsection (2), the word “Provincial” shall be omitted.

5. Amendment in section 5 of Act XXXV of 1964.— In the said Act, in section 5, for subsection (3), the following shall be substituted:

“(3) The Government may amend the Schedule through addition, deletion or substitution of any entry in the Schedule.”

6. Amendment in section 8 of Act XXXV of 1964.— In the said Act, for section 8, the following shall be substituted:

“8. Intimation to defendant.— (1) When a plaint is presented to a Family Court, it shall:

(a) fix a date which shall not be more than fifteen days for the appearance of the defendant;

(b) within two days of the presentation of the plaint, sent a notice or summons of the suit to a defendant through a

process serving agency of the Family Court, registered post acknowledgment due, electronically or through courier, together with a copy of the plaint, a copy of the schedule referred to in subsection (2) of section 7 and copies of the documents and a list of documents referred to in subsection (3) of section 7; and

- (c) direct that the notice or summons issued under clause (b) also be served through affixation and shall simultaneously issue a proclamation in a newspaper.

(2) While issuing the notice or summons to a defendant, the Family Court shall require the defendant to submit a written statement on the day mentioned in the notice or summons.”

7. Amendment in section 9 of Act XXXV of 1964.— In the said Act, in section 9:

- (a) for subsection (1), the following shall be substituted:
 “(1) On the date fixed under section 8, the defendant shall appear before the Family Court and file the written statement, a list of witnesses and gist of evidence, and in case the written statement is not filed on that date, the Family Court may, for any sufficient reasons which prevented the defendant from submitting the written statement, allow the defendant to submit the written statement and other documents on the next date which shall not exceed fifteen days from that date.”
- (b) after subsection (5), the following subsection (5A) shall be inserted:
 “(5A) If the defendant fails to submit the written statement on or before the date under subsection (1), the defence of the defendant shall stand struck off and the Family Court shall decide the case under the law.”

8. Amendment in section 10 of Act XXXV of 1964.— In the said Act, in section 10:

- (a) for subsection (3), the following shall be substituted:
 “(3) The Family Court may, at the pre-trial stage, ascertain the precise points of controversy between the parties and attempt to effect compromise between the parties.”;
- (b) for subsection (4), the following shall be substituted:
 “(4) Subject to subsection (5), if compromise is not possible between the parties, the Family Court may, if necessary, frame precise points of controversy and record evidence of the parties.”; and
- (c) after subsection (4), the following subsections (5) and (6) shall be inserted:
 “(5) In a suit for dissolution of marriage, if reconciliation fails, the Family Court shall immediately pass a decree for dissolution of marriage and, in case of dissolution of marriage through khula, may direct the wife to surrender up to fifty percent of her deferred dower or up to twenty-five percent of her admitted prompt dower to the husband.
 (6) Subject to subsection (5), in the decree for dissolution of marriage, the Family Court shall direct the husband to pay whole or part of the outstanding deferred dower to the wife.”

9. Amendment in section 11 of Act XXXV of 1964.– In the said Act, in section 11, after subsection (1), the following subsection (1A) shall be inserted:

“(1A) The Family Court shall record or cause to be recorded, the substance of the statement of a witness or may record or cause to be recorded, the statement of a witness through audio or video recording.”

10. Amendment in section 14 of Act XXXV of 1964.– In the said Act, in section 14, in subsection (2):

- (a) in clause (b), for the words “thirty thousand” the words “one hundred thousand” shall be substituted; and
- (b) in clause (b), for the words “one thousand” the words “five thousand” shall be substituted.

11. Amendment in section 15 of Act XXXV of 1964.– In the said Act, in section 15, in subsection (2), for the words “not exceeding one thousand” the words “of five thousand” shall be substituted.

12. Amendment in section 17-A of Act XXXV of 1964.– In the said Act, for section 17-A, the following shall be substituted:

“17A. Suit for maintenance.– (1) In a suit for maintenance, the Family Court shall, on the date of the first appearance of the defendant, fix interim monthly maintenance for wife or a child and if the defendant fails to pay the maintenance by fourteen day of each month, the defence of the defendant shall stand struck off and the Family Court shall decree the suit for maintenance on the basis of averments in the plaint and other supporting documents on record of the case.

(2) In a decree for maintenance, the Family Court may:

- (a) fix an amount of maintenance higher than the amount prayed for in the plaint due to afflux of time or any other relevant circumstances; and
- (b) prescribe the annual increase in the maintenance.

(3) If the Family Court does not prescribe the annual increase in the maintenance, the maintenance fixed by the Court shall automatically stand increased at the rate of ten percent each year.

(4) For purposes of fixing the maintenance, the Family Court may summon the relevant documentary evidence from any organization, body or authority to determine the estate and resources of the defendant.”

13. Amendment in section 20 of Act XXXV of 1964.– In the said Act, for section 20, the following shall be substituted:

“20. Family Court as Judicial Magistrate.– (1) A Family Court shall be deemed as the Judicial Magistrate of the first class under the Code of Criminal Procedure, 1898 (*V of 1898*) for taking cognizance and trial of any offence under this Act; the Muslim Family Laws Ordinance, 1961 (*VIII of 1961*); and, the Child Marriage Restraint Act, 1929 (*XIX of 1929*).

(2) A Family Court shall conduct the trial of an offence under subsection (1) in accordance with the provisions of Chapter XXII of the Code of Criminal Procedure, 1898 (*V of 1898*) relating to the summary trials.

(3) An offence other than contempt of a Family Court shall be cognizable on the complaint of the Union Council, Arbitration Council or the aggrieved party.”

14. Insertion of section 21A in Act XXXV of 1964.— In the said Act, after section 21, the following section 21A shall be inserted:

“21A. Intimation to Arbitration Council.— If a Family Court decrees dissolution of a Muslim marriage, the Family Court shall immediately but not later than three days from the decree send by registered post or other means a certified copy of the decree to the concerned Chairman of the Arbitration Council and upon receipt of the decree, the Chairman shall proceed as if he had received intimation of Talaq under the Muslim Family Laws Ordinance, 1961 (*VIII of 1961*).”

15. Amendment in Schedule of Act XXXV of 1964.— In the said Act, in the Schedule, in Part I, for entry at serial No.9, the following shall be substituted:

- “9. The personal property and belongings of a wife and a child living with his mother.
 10. Any other matter arising out of the Nikahnama.”
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