

Ordinance Summary

Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015

- The President promulgated the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Ordinance, 2015 on October 23, 2015. The Ordinance enables the creation of commercial divisions and commercial appellate divisions in high courts, and commercial courts at the district level.
- **Commercial dispute:** A commercial dispute is defined to include any dispute related to transactions between merchants, bankers, financiers, traders, etc. Such transactions deal with mercantile documents, partnership agreements, intellectual property rights, insurance, etc.
- **Specified value of a dispute:** The specified value of a commercial dispute that will be dealt with by commercial divisions in high courts and commercial courts will be an amount not below one crore rupees, and will be specified by the central government.
- **Commercial courts at the district level:** State governments may set up commercial courts, equivalent to district courts, after consulting with their respective high courts. However, a commercial court must not be set up in an area where the high court exercises ordinary original civil jurisdiction.
- **Commercial divisions in high courts:** Commercial divisions may be set up in those high courts which exercise ordinary original civil jurisdiction, that is, the High Courts of Delhi, Bombay, Calcutta, Madras and Himachal Pradesh. They will be set up by the Chief Justice of that particular High Court.
- **Commercial appellate divisions:** Commercial appellate divisions may be set up in all high courts to hear appeals against: (i) orders of commercial divisions of high courts; (ii) orders of commercial courts; and (iii) appeals arising from domestic and international arbitration matters that are filed before the high courts.

Such commercial appellate divisions in high courts will be set up by the Chief Justice of that High Court.
- **Appointment of commercial court judges:** Judges to a commercial court will be appointed by the State Government after concurring with the Chief Justice of the concerned high court. These judges will be appointed from the cadre of the higher judicial service in the state, and have experience in dealing with commercial disputes.
- **Nomination of high court judges to the commercial divisions and appellate divisions:** The Chief Justice of the High Court will nominate those high court judges with experience in commercial matters to be judges of the commercial division and appellate division of that High Court. The commercial divisions will comprise of one or more Benches consisting of a single judge. The commercial appellate divisions will comprise of one or more benches consisting of two judges.
- **Filing and disposal appeals:** Appeals to the commercial appellate division must be made within a period of 60 days of the order of the lower court. The commercial appellate division is to endeavour to dispose of appeals within a period of six months.
- **Infrastructure and training:** The state government must provide the necessary infrastructure for the working of the commercial court or commercial division of a high court.

The state government may, in consultation with the High Court, set up training facilities for the judges of the commercial court and commercial divisions and appellate divisions of high courts.
- **Transfer of pending suits:** All suits of a value of Rs one crore or more that are pending in the high court shall be transferred to the commercial division, after it is constituted.

Similarly, suits currently pending in the district courts, with a value of Rs. one crore or more would be transferred to the commercial court. However, a suit will not be transferred if a final judgment on the matter is pending.

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