

Ordinance Summary

The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018

- The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018, was promulgated on May 3, 2018. It amends the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015. The Act enables the creation of commercial divisions in High Courts, and commercial courts at the district level, to adjudicate commercial disputes (such as, disputes related to construction contracts and contracts for provision of goods and services).
- **Reduction in pecuniary limits:** Under the Act, commercial courts and commercial divisions in High courts can decide disputes with a value of at least one crore rupees. The Ordinance reduces this limit to three lakh rupees.
- **Establishment of certain commercial courts:** Under the Act, state governments may constitute commercial courts at district judge level, after consulting the concerned High Court. The Act bars such commercial courts to be constituted in cases where the High Court has the original jurisdiction to hear commercial cases. (Original jurisdiction refers to when a court has the power to hear a fresh case). The Ordinance removes this bar and allows states to constitute commercial courts where the High Court has original jurisdiction.
- **Commercial Appellate Courts:** In areas where High Courts do not have ordinary original civil jurisdiction, state governments, may notify commercial appellate courts at the district judge level. Appeals against the order of a commercial court (below the level of a district judge) will lie before the Appellate Court.
- **Mediation:** A provision for mandatory mediation has been provided in those cases where no urgent relief (such as an injunction) is being sought by the parties to the dispute. The mediation may be conducted by authorities constituted under the Legal Services Authorities Act, 1987 (such as the National and District Legal Services Authority). The mediation process is required to be completed within a period of three months (may be extended by another two months). A signed settlement between the parties will have the same effect as an arbitral award under the Arbitration and Conciliation Act, 1996.
- **Counterclaims not to be transferred:** Under the Act, if a counterclaim was filed in a commercial dispute of at least one crore rupees in a civil court, the civil court could transfer the suit to a commercial court. The Ordinance removes this provision in relation to transfer of suits.

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