

[TO BE INTRODUCED IN THE NATIONAL ASSEMBLY]

A

BILL

further to amend the Code of Criminal Procedure, 1898

Whereas it is expedient further to amend the Code of Criminal Procedure, 1898-(Act V of 1898) for the purposes hereinafter appearing;

It is hereby enacted as follows:

1. **Short title and commencement.** – (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2013.

(2) It shall come into force at once.

2. **Amendment in section 3, Act V of 1898.**- In the Code of Criminal Procedure, 1898 (Act V of 1898), hereinafter referred to as the said Code, in section 3, in sub-section (2), after the words “the Magistrate of the third class”, the commas and words “, the expression Magistrate of a division of a district shall be deemed to mean “Sub-Divisional Magistrate,” the expression “Magistrate of the district” shall be deemed to mean District Magistrate “, shall be inserted.

3. **Amendment in section 4, Act V of 1898.**- In the said Code, in section 4, in sub-section (1), clause (ma) shall be omitted.

4. **Amendment in section 6, Act V of 1898.**- (1) In the said Code, in section 6, for subsection (2) the following shall be substituted;

“(2) There shall be the following classes of Magistrates:

(i) Judicial Magistrates:

- (1) Magistrates of the First Class;
- (2) Magistrates of the Second Class;
- (3) Magistrates of the Third Class; and
- (4) Special Judicial Magistrates.

(ii) Judicial Magistrates:

- (1) District Magistrates;
- (2) Additional District Magistrates;
- (3) Sub-Divisional Magistrates;
- (4) Special Executive Magistrates;
- (5) Magistrates of the First Class;
- (6) Magistrates of the Second Class; and
- (7) Magistrates of the Third Class.”

5. **Amendment in section 8, Act V of 1898.**- In the said Code, in section 8, after sub-section (1), the following sub-section (2) shall be inserted:

"(2) **Existing sub-divisions maintained.**- All existing sub-divisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code."

6. **Insertion of section 10, Act V of 1898.**- In the said Code, after section 9, the following section 10 shall be inserted.

"10. **District Magistrate.**- (1) In every district, the Provincial Government appoint an Executive Magistrate of the First Class to be the District Magistrate.

(2) The Provincial Government may also appoint an Executive Magistrate of the First Class to be an Additional District Magistrate and such Additional District Magistrate shall have such powers of a District Magistrate under this Code or under any other law for the time being in force as the Provincial Government may direct.

(3) For purposes of section 192 and 407, subsection (2) such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate."

7. **Insertion of section 11, Act V of 1898.**- In the said Code, after section 10, the following section 11 shall be inserted:

"11. **Officers temporarily succeeding to vacancies in office of District Magistrate.**- In case the office of the District Magistrate is vacant, the Additional District Magistrate of the district and in case there is no Additional District Magistrate, such other Executive Magistrate as the Provincial Government may determine shall perform the functions of the District Magistrate."

8. **Insertion of section 13, Act V of 1898.**- In the said Code, after section 12, the following section 13 shall be inserted;

"13. **Power to put Executive Magistrate in charge of a sub-division.**- (1) The Provincial Government may place any executive Magistrate of the First or Second Class in charge of a sub-division.

(2) Such Magistrate shall be called the Sub-divisional Magistrate.

(3) **Delegation of powers to District Magistrate.**- The Provincial Government may delegate its powers under this section to the District Magistrate."

9. **Amendment in section 14, Act V of 1898.**- In the said Code, in section 14:

(a) The marginal heading shall be substituted by the following:

"**Special Judicial and Executive Magistrates.**-"

(b) In sub-section (1), after the words "any person", the commas and the words", including a former Executive Magistrate," shall be omitted; and

(c) after sub-section (2), the following sub-sections (3), (4) and (5) shall be inserted:

"(3) The Provincial Government may also appoint Executive Magistrates for particular areas or for performance of particular functions and confer upon them all or any of the powers conferred or conferrable by or under this Code on an Executive Magistrate.

(4) Such Magistrates shall be called Executive Magistrates, and shall be appointed for such term as the Provincial Government may, by general or special order, direct:

Provided that no powers shall be conferred under this sub-section on any police officer below the rank of Assistant Superintendent and no power shall be conferred on a police officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought before a magistrate and for performance by the officer of any other duties imposed upon him by any law for the time being in force.

(5) The Provincial Government may delegate, subject to such limitations as it thinks fit, to any officer under its control the powers conferred by subsection (3)."

10. **Omission of section 14-A, Act V of 1898.**- In the said Code, section 14-A shall be omitted.
11. **Amendment in section 16, Act V of 1898.**- In the said Code, in section 16:
 - (a) semicolon appearing at the end of entry at serial (d) shall be substituted with a full stop; and
 - (b) entry at serial (e) shall be omitted.
12. **Amendment in section 17, Act V of 1898.**- In the said Code, in section 17:
 - (a) in sub-section (1):
 - (i) in the marginal heading, after the words 'Subordination of' the word "Judicial" shall be inserted;
 - (ii) after the word "All", the word "Judicial" shall be inserted;
 - (iii) after the figure "12" a comma and the figure and word "13 and" shall be inserted; and
 - (iv) after the figure "14", the word and figure "and 14A" shall be omitted.
 - (b) after subsection (1), the following sub-sections (2) and (2A) shall be inserted:

"(2) **Subordination of Executive Magistrates to District Magistrate.**- All Executive Magistrates in a district appointed under sections 12, 13 and 14 shall be subordinate to the District Magistrate and he may, from time to time, make rules or given special orders consistent with this Code and any rules framed by the Provincial Government under section 16, as to the distribution of business amongst such Magistrates.

(2-A) **Subordination of Executive Magistrates to Sub-divisional Magistrate.**- Subject to the general control of the District Magistrate, all Executive Magistrates in a Sub-division shall be subordinate to the Sub-divisional Magistrate."
13. **Substitution of section 25, Act V of 1898.**- In the said Code, for section 25, the following shall be substituted:

"25. **Ex-officio Justice of the Peace.**- By virtue of their respective offices, the Judges of the High Courts are Justices of the Peace within and for the whole of Pakistan, Sessions Judges and District

Magistrates are Justices of the Peace within and for the whole of the territories administered by the Provincial Government under which they are serving.”

14. **Amendment in section 28, Act V of 1898.**-In the said Code, in section 28, the full stop at the end shall be substituted by a colon and thereafter, the following proviso shall be inserted:

“Provided that the offences falling under Chapters VIII, X, XIII and XIV of the Pakistan Penal Code (Act XLV of 1860), except offences specified in section 153A and section 281 of the said Code shall be tried by the Executive Magistrates and the expression “Magistrate” used in the said eight column shall mean Executive Magistrate of the respective class.”

15. **Amendment in section 29, Act V of 1898.**- In the said Code, in section 29, the full stop at the end shall be substituted by a colon and thereafter, the following proviso shall be inserted:

“Provided that the offences punishable with imprisonment for a term not exceeding three years, with or without any other punishment, shall be tried by the Executive Magistrates.”

16. **Amendment in section 30, Act V of 1898.**- In the said Code, in section 30, after the words “invest any”, the word “Judicial” shall be inserted.

17. **Amendment in section 32, Act V of 1898.**- In the said Code, in section 32, in sub-section (1), after the words “The Court of”, the word “Judicial Magistrate” shall be inserted.

18. **Amendment in section 34, Act V of 1898.**- In the said Code, in section 34, in the marginal heading, after the word “certain”, the word “Judicial Magistrates” shall be inserted.

19. **Amendment in section 36, Act V of 1898.**- In the said Cod, in section 36, after the words “All”, the words “Judicial and Executive” shall be inserted.

20. **Substitution of section 37, Act V of 1898.**- In the said Code, for section 37, the following shall be substituted:

“37. **Additional powers conferrable on Magistrates.**- In addition to his ordinary powers, any Magistrate may be invested by the Provincial Government with any powers specified in the Fourth Schedule:

Provided that, in case of a Judicial Magistrate, such powers shall be conferred on the recommendation of the High Court;

Provided further that the Provincial Government may authorize a District Magistrate to invest any Magistrate subordinate to him with any powers specified in Part II of the Fourth Schedule.”

21. **Insertion of section 38, Act V of 1898.**- In the said Code, after section 37, the following section 38 shall be inserted:

“38. **Control over District Magistrates investing power.**- The powers conferred on the District Magistrate by section 37 shall be exercised subject to the control of the Provincial Government.”

22. **Substitution of section 41, Act V of 1898.**- In the said Code, for session 41, the following shall be substituted:

"41. **Withdrawal of powers.**- (1) The Provincial Government may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it:

Provided that, in the case of a Judicial Magistrate, the withdrawal of such powers shall not be made except on the recommendation of the High Court.

(2) A District Magistrate may withdraw any powers conferred by him on a Magistrate."

23. **Amendment in section 45, Act V of 1898.**- In the said Code, in section 45:

(a) in sub-section (1), in clause (f), for the words "any officer authorized by the Provincial Government", the words "the District Magistrate" shall be substituted;

(b) in sub-section (3):

(i) in the marginal heading, after the words "headmen", the words "by District Magistrate or Sub-Divisional Magistrate" shall be inserted; and

(ii) for the words and brackets "District Officer (Revenue)", the words "District Magistrate or Sub-Divisional Magistrate" shall be substituted.

24. **Amendment in section 62, Act V of 1898.**- In the said Code, in section 62:

(a) for the words, commas, brackets and figures "Zila Nazim, District Superintendent of Police and District Public Safety Commission set up under the Police Act, 1861 (V of 1861), simultaneously", the words and commas "District Magistrate, or if he so directs, to the Sub-divisional Magistrate," shall be substituted; and

(b) the provisos shall be omitted.

25. **Amendment in section 78, Act V of 1898.**- In the said Code, in section 78, in sub-section (1), for the words "Magistrate of the first class", the words "District Magistrate or Sub-divisional Magistrate" shall be substituted.

26. **Amendment in section 88, Act V of 1898.**- In the said Code, in section 88:

(a) in sub-section (2), for the words "Sessions Judge", the words "District Magistrate" shall be substituted;

(b) in sub-section (4) for the words and brackets "District Officer (Revenue)", the words "Collector of the District" shall be substituted;

(c) In sub-section (6-B), for the words "Sessions Judge", the words "District Magistrate" shall be substituted; and

(d) In sub-section (6-C):

(i) the words "or Magistrate" shall be omitted; and

(ii) for the full-stop at the end, a colon shall be substituted and the following proviso shall be inserted:

“Provided that if it is preferred or made in the Court of a District Magistrate, such Magistrate may make it over for disposal to any Magistrate subordinate to him.”

27. **Amendment in section 94, Act V of 1898.**- In the said Code, in section 94, in sub-section (3):

- (a) for the words, commas and figures “Evidence Act, 1872, section 123 and 124”, the words, commas the figures “Qanun-e-Shahadat Order, 1984, Article 6 and 7” shall be substituted; and
- (b) for the words “the Postal or Telegraph authorities”, the words and commas “any authority engaged in the delivery of mail, or provision of telecommunication or similar other services” shall be substituted.

28. **Amendment in section 95, Act V of 1898.**- In the said Code, in section 95:

- (a) in the marginal heading, for the words “and telegrams”, the word “etc.” shall be inserted;
- (b) in sub-section (1), after the words “in the opinion of any”, the word “District” shall be inserted;
- (c) in sub-section (1), for the words “Postal or Telegraph authorities”, the words and commas “any authority engaged in the delivery of mail, or provision of telecommunication or similar other services” shall be substituted; and
- (d) in sub-section (2), after the words “the orders of any such”, the word “District Magistrate” shall be inserted.

29. **Amendment in section 96, Act V of 1898.**- In the said Code, in section 96, after sub-section (1), the following sub-section (2) shall be inserted:

“(2) Nothing herein contained shall authorize any Magistrate other than a District Magistrate to grant a warrant to search for a document, parcel, record or any other thing in the custody of any authority engaged in the delivery of mail, or provision of telecommunication or similar other services.”

30. **Amendment in section 98, Act V of 1898.**- In the said Code, in section 98, in sub-section (1), after the words “if a”, the words and comma “District Magistrate, Sub-divisional Magistrate, or” shall be inserted.

31. **Amendment in section 100, Act V of 1898.**- In the said Code, in section 100, after the words “first class”, the words “or Sub-divisional Magistrate” shall be inserted.

32. **Amendment in section 107, Act V of 1898.**- In the said Code, in section 107:

- (a) in sub-section (1), for the words “Magistrate of the first class”, the words and comma “District Magistrate, Sub-divisional Magistrate, or an Executive Magistrate specially empowered in this behalf by the Provincial Government or the District Magistrate” shall be substituted; and
- (b) in subsection (2), for the words “except with the approval of the Sessions Judge”, the words “other than a District Magistrate” shall be substituted.

33. **Amendment in section 108, Act V of 1898.**-In the said Code, in section 108, for the words "Magistrate of the first class" the words and commas "District Magistrate, Sub-divisional Magistrate, or an Executive Magistrate specially empowered by the Provincial Government in this behalf" shall be substituted.
34. **Amendment in section 109, Act V of 1898.**- In the said Code, in section 109, for the words "Magistrate of the first class", the words "District Magistrate or Sub-Divisional Magistrate or an Executive Magistrate specially empowered by the Provincial Government in this behalf" shall be substituted.
35. **Amendment in section 110, Act V of 1898.**- In the said Code, in section 110, for the words "Magistrate of the first class", the words "District Magistrate or Sub-Divisional Magistrate or an Executive Magistrate specially empowered by the Provincial Government in this behalf" shall be substituted.
36. **Amendment in section 124, Act V of 1898.**- In the said Code, in section 124, for the words "Sessions Judge", wherever occur, the words "District Magistrate" shall be substituted.
37. **Amendment in section 125, Act V of 1898.**- In the said Code, in section 125, for the words "Sessions Judge", the words "District Magistrate" shall be substituted.
38. **Amendment in section 126, Act V of 1898.**- In the said Code, in section 126, in sub-section (1), for the words "concerned Magistrate of the first class", the words "District Magistrate or Sub-divisional Magistrate" shall be substituted.
39. **Amendment in section 127, Act V of 1898.**- In the said Code, in section 127, before the words "officer in charge of a police-station", the words "Executive Magistrate or" shall be inserted.
40. **Amendment in section 128, Act V of 1898.**- In the said Code, in section 128:
- (a) before the words "officer in charge of a police-station" the words "Executive Magistrate or" shall be inserted; and
 - (b) for the colon at the end full-stop shall be substituted and the proviso shall be omitted.
41. **Amendment in section 129, Act of 1898.**- In the said Code, in section 129, for the words and commas "the Police Officer of the highest rank not below an Assistant Superintendent, or Deputy Superintendent of Police", the words "Executive Magistrate of the highest rank" shall be substituted.
42. **Amendment in section 130, Act V of 1898.**- In the said Code, in section 130, in sub-section (1):
- (a) for the words "a police officer of the highest rank not below an Assistant Superintendent or Deputy Superintendent of Police", the words "an Executive Magistrate" shall be substituted; and
 - (b) the words "or such police officer" shall be omitted.
43. **Amendment in section 131, At V of 1898.**- In the said Code, in section 131:
- (a) for the words and comma "police officer of the highest rank not below an assistant Superintendent, or Deputy Superintendent of the Police", the words "Executive Magistrate" shall be substituted;

- (b) for the words "a police officer not below the rank of Assistant Superintendent or Deputy Superintendent of Police", the words "an Executive Magistrate" shall be substituted; and
 - (c) for the words "such police officer", the words "the Magistrate" shall be substituted.
44. **Amendment in section 132, Act V of 1898.**- In the said Code, in section 132, in clause (a), before the words "police officer", the words "Magistrate or" shall be inserted.
45. **Amendment in section 133, Act V of 1898.**- In the said Code, in section 133, in sub-section (1):
- (a) in the first paragraph, for the words "Magistrate of the first class Magistrate", the words and comma "District Magistrate, a Sub-divisional Magistrate or an Executive Magistrate" shall be substituted; and
 - (b) in the eighteenth paragraph for the words "Magistrate of the first class", the words "Executive Magistrate" shall be substituted; and
46. **Amendment in section 143, Act V of 1898.**- In the said Code, in section 143, for the words "Magistrate of the first class", the words and comm. "District Magistrate or Sub-divisional Magistrate, or any other Executive Magistrate specially empowered by the Provincial Government or the District Magistrate in the behalf" shall be substituted.
47. **Amendment in section 144, Act V of 1898.**- In the said Code, in section 144:
- (a) in sub-section (1):
 - (i) in the first paragraph, for the words "Zila Nazim upon the written recommendation of the District Superintendent of Police or Executive District Officer", the words and commas "a District Magistrate, a Sub-divisional Magistrate, or any other Executive Magistrate specially empowered by the Provincial Government or the District Magistrate to act under this section," shall be substituted; and
 - (ii) before the words "or by his predecessor-in-office", the words and comma "or any Magistrate subordinate to him," shall be inserted;
 - (c) in sub-section (5), for the words "Zila Nazim", wherever occur, the word "Magistrate" shall be substituted; and
 - (d) in sub-section (6), for the words "consecutive days and not more than seven days in a month", the word months" shall be substituted.
48. **Amendment in section 145, Act V of 1898.**- in the said Code, in section 145, sub-section (1), for the words "Magistrate of the first class", the words and commas "District Magistrate, or Sub-Divisional Magistrate, or an Executive Magistrate specially empowered by the Provincial Government" shall be substituted.
49. **Amendment in section 146, Act V of 1898.**- In the said Code, in section 146, in sub-section (1), in the proviso, before the word "Magistrate", the words "the District Magistrate or" shall be inserted.
50. **Amendment in section 147, Act V of 1898.**- In the said Code, in section 147, in sub-section (1), for the words "Magistrate of the first class", the words and comma "District Magistrate, or Sub-divisional

Magistrate or an Executive Magistrate specially empowered by the Provincial Government in this behalf" shall be substituted.

51. **Amendment in section 148, Act V of 1898.**- In the said Code, in section 148, in sub-section (1), for the words "a Sessions Judge", the words "District Magistrate or Sub-divisional Magistrate" shall be substituted.

52. **Amendment of section 167, Act V of 1898.**-In the said Code, in section 167, in sub-section (1), the following explanation shall be inserted:

"Explanation: For the purpose of this section, in the case triable by an Executive Magistrate, the expression "nearest Magistrate" means the Executive Magistrate and in all other cases the Judicial Magistrate."

53. **Amendment in section 174, Act V of 1898.**- In the said Code, in section 174:

- (a) in subsection (1), after the words "any rules prescribed by the Provincial Government", the words and commas ", or by a any general or special order of the District or Sub-divisional Magistrate," shall be inserted;
- (b) in subsection (2), for the word "concerned", the words "District Magistrate or sub-divisional" shall be substituted; and
- (c) for subsection (5), the following shall be substituted.

"(5) A District Magistrate, Sub-divisional Magistrate or any other Executive Magistrate specially empowered in this behalf by the Provincial Government or the District Magistrate may hold an inquest under this section.

54. **Amendment in section 186, Act V of 1898.**- in the said Code, in section 186, in subsection (1), after the word "When" the words and commas "a District Magistrate, or a Sub-divisional Magistrate, or, if, he is specially empowered in this behalf by the Provincial Government," shall be inserted.

55. **Substitution of section 190, Act V of 1898.**- In the said Code, for section 190, the following shall be substituted:

"190. **Cognizance of offences by Magistrates.**- (1) Except as hereinafter Provided, any District Magistrate, or a Sub-Divisional Magistrate and any other Magistrate specially empowered in this behalf, may take cognizance of any offence:

- (a) Upon receiving a complaint of facts which constitute such offence;
- (b) Upon a report in writing of such facts made by any police officer; or
- (c) Upon information received from any person other than a police officer or upon his own knowledge or suspicion, that such offence has been committed.

{2} The Provincial Government may empower any Magistrate to take cognizance under subsection (1), clause (a) or clause (b) of offence for which he may try or send to the Court of Session for trial:

Provided that in the case of a Judicial Magistrate the Provincial Government shall exercise shah power on the recommendation of the High Court.