

101. Direction, etc. of search-warrants. The provisions of sections 43,75,77,79,82, 83 and 84 shall, so far as may be apply to all search, warrants issued under section 96, section 98, section 99A or section 100.

102. Persons incharge of closed place to allow search. (1) Whenever any place liable to search or inspection under this Chapter is closed, any person residing in, or being in charge of such place shall, on demand of the officer or other person executing the warrant, and on production of the warrant, allow him free ingress thereto, and afford all reasonable facilities, for a search therein.

(2) If ingress into such place cannot be so obtained, the officer or other person executing the warrant may proceed in manner provided, by section 48.

(3) Where any person in or about such place is reasonably suspected of concealing about his person any article for which search should be made, such person may be searched. If such person is a woman, the directions, of section 52 shall be observed.

103. Search to be made in presence of witness. (1) Before making a search under this Chapter, the officer or other person about to make it shall call upon two or more respectable inhabitants of the locality in which the place to be searched is situate to attend and witness the search and may issue an order in writing to them or any of them so to do.

(2) The search shall be made in their presence, and a list of all things seized in the course of such search and of the places in which they are respectively found shall be prepared by such officer or other person and signed by such witnesses; but no person witnessing a search under this section shall be required to attend the Court as a witness of the search unless specially summoned by it.

(3) **Occupant of place searched may attend.** The occupant of the place searched, or some person in his behalf, shall, in every instance be permitted to attend during the search, and a copy of the list prepared under this section, signed by the said witness, shall be delivered to such occupant or person at his request.

(4) When any person is searched under section 102, subsection (3), a list of all things taken possession of shall be prepared, and a copy thereof shall be delivered to such person at his request.

(5) Any person who, without reasonable cause, refuses or neglects to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under section 187 of the Pakistan Penal Code.

104. Power to impound document etc., produced. Any Court may, if it thinks fit, impound any document or thing produced before it under this Code.

105. Magistrate may direct search in his presence. Any Magistrate may direct a search to be made in his presence of any place for the search of which he is competent to issue a search-warrant.

PART IV - PREVENTION OF OFFENCES

CHAPTER VIII - OF SECURITY KEEPING THE PEACE AND FOR GOOD BEHAVIOR

A. Security for keeping the peace on conviction

106. Security for keeping the peace on conviction. (1) Whenever any person accused of any offence punishable under Chapter VIII of the Pakistan Penal Code, other than an offence punishable under section 143, section 149, section 153A or section 154 thereof, or of assault or other offence involving a breach of the peace, or of abetting the same, or any person accused of committing criminal intimidation, is convicted of such offence before a High Court a Court of Sessions, or the Court of [a District Magistrate, Sub-Divisional Magistrate or] a Magistrate of the First class, and such Court is of opinion that it is necessary to require such person to execute a bond for keeping the peace, such Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for keeping the peace during such period, not exceeding three years, as it thinks fit to fix.

(2) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(3) An order under this section may also be made by an Appellate Court [or by a Court] when exercising its powers of revision.

B. Security for keeping the peace in other cases and security for good behavior.

107. Security for keeping the peace in other cases. (1) Whenever (a District Magistrate or Sub-Divisional Magistrate or an Executive Magistrate specially empowered in this behalf by the Provincial Government or the District Magistrate] of the first class is informed that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility, the Magistrate if in his opinion there is sufficient ground for proceeding may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond with or without sureties, for keeping the peace for such period not exceeding [three years] as the Magistrate thinks fit to fix.

(2) Proceedings shall not be taken under this section unless either the person Informed against or the place where the breach of the peace or disturbance is apprehended, is within the local limits of such Magistrate's jurisdiction, and no proceedings shall be taken before any Magistrate other than a District Magistrate, unless both the persons informed against and the place where the breach of the peace or disturbance is apprehended, are within the local limits of the Magistrate's jurisdiction.

(3) Procedure of Magistrate not empowered to act under sub-section (1). When any Magistrate not empowered to proceed under sub-section (1) has reason to believe that any person is likely to commit a breach of the peace or disturb the public tranquility or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquility, and that such breach of the peace or disturbance cannot be prevented otherwise than by detaining such person in custody, such Magistrate may, after recording his reason, issue a warrant for his arrest (if he is not already in custody or before the Court), and may send him before a Magistrate empowered to deal with the case, together with a copy of his reasons.

(4) A Magistrate before whom a person is sent under sub-section (3) may in his discretion detain such person in custody pending further action by himself under this Chapter.

108. Security for good behavior from persons disseminating seditious matter. Whenever a District Magistrate [or a Sub-divisional Magistrate or an Executive Magistrate] specially empowered by the Provincial Government in this behalf, has information that there is within the limits of his jurisdiction any person who, within or without such limits either orally or in writing or in any other manner intentionally disseminates or attempts to disseminate, or in anywise abets the dissemination of:

(a) any seditious matter, that is to say, any matter the publication of which is punishable under section 123A or section 124A of the Pakistan Penal Code; or

- (b) any matter the publication of which is punishable under section 153A of the Pakistan Penal Code; or
- (c) any matter concerning a Judge which amounts to criminal intimidation or defamation under the Pakistan Penal Code. Such Magistrate, if in his opinion there is sufficient ground for proceeding may (in matter hereinafter provided) require such person to show cause why he should not be ordered to execute a bond; with or without sureties, for his good behavior for period, not exceeding one year, as the Magistrate thinks fit to fix. No proceedings shall be taken under this section against the editor, proprietor, or publisher of any publication registered under, [and edited, printed and published] in conformity with the [provisions of the West Pakistan Press and Publications Ordinance, 1963 or any other law relating to press and publications for the time being in force] with reference to any matters contained in such publication except by the order or under the authority of a Provincial Government or some officer empowered by the Provincial Government in this behalf.

109. Security for good behavior from vagrants and suspected persons. Whenever [a District Magistrate or Sub-Divisional Magistrate or an Executive Magistrate specially empowered by the Provincial Government in this behalf] receives information:

- (a) that any person is taking precautions to conceal his presence within the local limits of such Magistrate's jurisdiction, and that there is reason to believe that such person is taking such precautions with a view to committing any offence, or
- (b) that there is within such limits a person who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself. Such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behavior for such period, not exceeding 2(three years), as the Magistrate thinks fit to fix.

110. Security for good behavior from habitual offenders. Whenever a District Magistrate, or Sub-divisional Magistrate or a 3[Executive Magistrate] specially empowered in this behalf by the Provincial Government receives information that any person within the local limits of his jurisdiction;

- (a) is by habit a robber, house-breaker, thief, or forger or
- (b) is by habit a receiver of stolen property knowing the same to have been stolen, or
- (c) habitually protects or harbors thieves or aids in the concealment or disposal of stolen property, or
- (d) habitually commits or attempts to commit, or abets the commission of, the offence of kidnapping, abduction, extortion, cheating or mischief, or any offence punishable under Chapter XII of the Pakistan Penal Code, or under section 489A, section 489B, section 489C or section 489D of that Code, or
- (e) habitually commits, or attempts to commit, or abets the commission of, offences involving a breach of the peace, or
- (f) is so desperate and dangerous as to render his being at large without security hazardous to the community. Such Magistrate may, in manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behavior for such period, not exceeding three years, as the Magistrate thinks fit to fix.

111. [Proviso as to European vagrants] Rep. by the Criminal Law Amendment Act, 1923 (XII of 1023) S. 8.

112. Order to be made. When a Magistrate acting under section 107, section 108 section 109 or section 110 deems it necessary to require any person to show cause under such section, he shall make an order in writing, setting forth the substance of the information received, the amount of the bond to be executed, the term for which it is to be in force, and the number, character and class of sureties (if any) required.

113. Procedure in respect of person present in Court. If the person in respect of whom such order is made is present in Court, it shall be read over to him, or, if he so desires, the substance thereof shall be explained to him.

114. Summons or warrant in case of person not so present. If such person is not present in Court, the Magistrate shall issue a summons requiring him to appear, or, when such person is in custody, a warrant directing the officer in whose custody he is, to bring him before the Court;

Provided that whenever it appears to such Magistrate, upon the report of a police-officer or upon other information (the substance of which report or information shall be recorded by the Magistrate), that there is reason to fear the commission of a breach of the peace, and that such breach of the peace cannot be prevented otherwise than by the immediate arrest of such person, the Magistrate may at any time issue a warrant for his arrest.

115. Copy of order under section 112 to accompany summons or warrant. Every summons or warrant issued under section 114 shall be accompanied by a copy of the order made under section 112, and such copy shall be delivered by the officer serving or executing such summons or warrant to the person served with, or arrested under the same.

116. Power to dispense with personal attendance. The Magistrate may, if he sees sufficient cause, dispense with the personal attendance of any person called upon to show cause why he should not be ordered to execute a bond for keeping the peace, and permit him to appear by a pleader.

117. Inquiry as to truth of information. (1) When an order under section 112 has been read or explained under section 113 to a person present in Court, or when any person appears or is brought before a Magistrate in compliance with. or in execution of a summons or warrant, issued under section 114. the Magistrate shall proceed to inquire into the truth of the information upon which action has been taken, and to take such further evidence as may appear necessary.

(2) Such Inquiry shall be made, as nearly as may be practicable, in the manner prescribed in Chapter XX for conducting trials and recording evidence, except that no charge need be framed.]

(3) Pending the completion of the inquiry under sub-section (1) the Magistrate, if he considers that immediate measures are necessary for the prevention of a breach of the peace or disturbance of the public tranquility or the commission of any offence or for the public safety, may for reasons to be recorded in writing, direct the person in respect of whom the order under section 112 has been made to execute a bond, with or without sureties, for keeping the peace or maintaining good behavior until the conclusion of the inquiry, and may detain him in custody until such bond is executed or, in default of execution, until the inquiry is concluded. Provided that:

(a) no person against whom proceedings are not being taken under section 108, section 109, or section 110, shall be directed to execute a bond for maintaining good behavior, and

(b) the conditions of such bond, whether as to the amount thereof or as to the provision of sureties or the number thereof or the pecuniary extent of their liability, shall not be more onerous than those specified in the order under section 112.

(4) For the purpose of this section the fact that a person is an habitual offender or is so desperate and dangerous as to render his being at large without security hazardous to the community may be proved by evidence of general repute or otherwise.

(5) Where two or more persons have been associated together in the matter under inquiry they may be dealt with in the same or separate inquiries as the Magistrate shall think just.

118. Order to give security. (1) If, upon such inquiry, it is proved that it is necessary for keeping the peace or maintaining good behavior, as the case may be, that the person in respect of whom the inquiry is made should execute a bond, with or with sureties, the Magistrate shall make an order accordingly; Provided:

Firstly, that no person shall be ordered to give security of a nature different from, or of an amount larger than, or for a period longer than, that specified in the order made under section 112:

Secondly, that the amount of every bond shall be fixed with due regard to the circumstances of the case and shall not be excessive:

Thirdly, that when the person in respect of whom the inquiry is made is a minor, the bond shall be executed only by his sureties.

119. Discharge of person informed against. If, on an inquiry under section 117, it is not proved that it is necessary for keeping the peace or maintaining good behavior, as the case may be, thus the person in respect of whom the inquiry is made, should execute a bond, the Magistrate shall make an entry on the record to that effect, and if a such person is in custody only for the purposes of the inquiry shall release him, or, if such person is not in custody, shall discharge him.

C. Proceedings in all cases subsequent to order to furnish Security

120. Commencement of period for which security is required. (1) If any person, in respect of whom an order requiring security is made under section 106 or section 118, is, at the time such order is made, sentenced to, or undergoing a sentence of imprisonment the period for which such security is required shall commence on the expiration of such sentence.

(2) In other case such period shall commence on the date of such order unless the Magistrate, for sufficient reason, fixes a later date.

121. Contents of bond. The bond to be executed by any such person shall bind him to keep the peace or to be of good behavior, as the case may be, and in the later case the commission or attempt to commit, or the abetment of, any offence punishable with imprisonment, wherever it may be committed, is a breach of the bond.

122. Power to reject sureties. (1) A Magistrate may refuse to accept any surety offered, or may reject any surety previously accepted by him or his predecessor under this Chapter on the ground that such surety is an unfit person for the purposes of the bond: Provided that, before so refusing to accept or rejecting any such surety, he shall either himself hold an inquiry on oath into the fitness of the surety or cause such inquiry to be held, and a report to be made thereon by a Magistrate subordinate to him.

(2) Such Magistrate shall, before holding inquiry, give reasonable notice to the surety and to the person by whom the surety was offered and shall in making the inquiry record the substance of the evidence adduced before him.

(3) If the Magistrate is satisfied, after considering the evidence so adduced either before him or before a Magistrate deputed under sub-section (1), and the report of such Magistrate (if any) that the surety is an unfit person for the purposes of the bond, he shall make an order refusing to accept or rejecting, as the case may be, such surety and recording his reasons for so doing.

Provided that, before making an order rejecting any surety who has previously been accepted, the Magistrate shall issue his summons or warrant, as he thinks fit, and cause the person for whom the surety is bound to appear or to be brought before him,

123. Imprisonment in default of security. (1) If any person ordered to give security under section 106 or section 118 does not give such security on or before the date on which, the period for which such security is to be given commences, he shall, except in the case next hereinafter mentioned be committed to prison, or if he is already in prison be detained in prison until such period expires or until within such period he gives the security to the Court or Magistrate who made the order requiring it.

(2) Proceedings when to be laid before High Court or Court of Sessions. When such person has been ordered by a Magistrate to give security for a period exceeding one year, such Magistrate shall, if such person does not give such security as aforesaid, issue a warrant directing him to be detained in prison pending the orders of the Sessions Judge; [****] and the proceedings shall be laid, as soon as conveniently may be, before [such Judge.]

(3) The Sessions Judge, after examining such proceedings and requiring from the Magistrate any further information or evidence which he thinks necessary, may pass such order on the cases as he thinks fit:

Provided that the period (if any) for which any person is imprisoned for failure to give security shall not exceed three years.

(3-A) If security has been required in the course of the same proceedings from two or more persons in respect of anyone of whom the proceedings are referred to the Sessions Judge under sub-section (2), such reference, shall also include the case of any other of such persons who has been ordered to give security, and the provisions of sub-sections (2) and (3) shall, in that event, apply to the case of such other person also, except that the period (if any) for which he may be imprisoned shall not exceed the period for which he was ordered to give security.

(3-B) A Sessions Judge may in his discretion transfer any proceedings laid before him under sub-section (2) or sub-section (3A) to an Additional Sessions Judge or Assistant Sessions Judge and upon such transfer, such Additional Sessions Judge or Assistant Sessions Judge may exercise the powers of a Sessions Judge under this section in respect of such proceedings.

(4) If the security is tendered to the officer incharge of the jail, he shall forthwith refer the matter to the Court or Magistrate who made the order, and shall await the orders of such Court or Magistrate.

(5) Kind of imprisonment. Imprisonment for failure to give security for keeping the peace shall be simple.

(6) Imprisonment for failure to give security for good behavior shall, where the proceedings have been taken under section 108 be simple and, where the proceedings have been taken under section 109 or section 110, be rigorous or simple as the Court or Magistrate in each case directs.

124. Power to release person imprisoned for failing to give security. (1) Whenever the District Magistrate is of opinion that any person imprisoned for failing to give security under this Chapter may be

released without hazard to the community or to any other person, he may order such person to be discharged.

(2) Whenever any person has been imprisoned for failing to give security under this Chapter, the District Magistrate may (unless the order has been made by some Court superior to his own) make an order reducing the amount of the security or the number of sureties or the time for which security has been required.

(3) An order under sub-section (1) may direct the discharge of such person either without conditions or upon any conditions which such person accepts.

Provided that any condition imposed shall cease to be operative when the period for which such person was ordered to give security has expired.

(4) The Provincial Government may prescribe the conditions upon which a conditional discharge may be made.

(5) If any condition upon which any such person has been discharged is in the opinion of the District Magistrate by whom the order of discharge was made or of his successor not fulfilled, he may cancel the same.

(6) When a conditional order of discharge has been cancelled under sub-section (5), such person may be arrested by any police-officer without warrant, and shall thereupon be produced before the District Magistrate. Unless such person then gives security in accordance with the terms of the original order for the unexpired portion of the term for which he was in the first instance committed or ordered to be detained (such portion being deemed to be a period equal to the period between the date of the breach of the conditions of discharge and the date on which, except for such conditional discharge, he would have been entitled to release), the District Magistrate may remand such person to prison to undergo such unexpired portion. A person remanded to prison under this sub-section shall, subject to the provisions of section 122, be released at any time on giving security in accordance with the terms of the original order for the unexpired portion aforesaid to the Court or Magistrate by whom such order was made or to its or his successor.

125. Power of District Magistrate to cancel any bond for keeping the peace or good behavior. The District Magistrate may at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace or for good behavior executed under this Chapter by order of any Court in his district not superior to his Court.

126. Discharge of sureties. (1) Any surety for the peaceable conduct or good behavior of another person may at any time apply to a District Magistrate [or Sub-Divisional Magistrate] to cancel any bond executed under this Chapter within the local limits of his jurisdiction.

(2) On such application being made, the Magistrate shall issue his summons or warrant, as he thinks fit, requiring the person for whom such surety is bound to appear or to be brought; before him.

126-A. Surety for unexpired period of bound. When a person for whose appearance a warrant or summons has been issued under the proviso to sub-section (3) of section 122, or under section 126, sub-section (2), appears or if brought before him, the Magistrate shall cancel the bond executed by such person and shall order such person to give, for the unexpired portion of the term of such bond fresh security of the same description as the original security. Every such order shall, for the purposes of sections 121, 122, 123 and 124, be deemed to be an order made under section 106 or section 118, as the case may be.