OFARREST,ESCAPE AND RETAKING

A—Arrest generally

46. Arrest how made: (1) In making an arrest the police officer or other person making

the same shall actually touch or confine the body of the person to be arrested, unless

there, be a submission to the custody by word or action.

(2) Restating endeavour to arrest: If such person forcibly resists the 'endeavour to arrest

him, or attempts to evade the arrest, such police officer or other-person may use all

means necessary to effect the arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused

of an offence punishable with death or with [imprisonment for life].

Words subs, by Criminal Procedure (Amendment) Act, XXV of 1974

47. Search of place entered by person sought to be arrested: If any person acting

under a warrant of arrest, or any police-officer having authority to arrest, has reason to

believe that the person to be arrested has entered into, or is within any place, the person

residing in, or being in charge of such place shall, on demand of such parson acting as

aforesaid or such police-officer, allow him free ingress thereto, and afford all reasonable

facilities for a search therein.

48. Procedure where ingress not obtainable: If ingress to such place cannot be

obtained under Section 47 it shall be lawful in any case for a person acting under a

warrant and in any case in which a warrant may issue, but cannot be obtained without

affording the person to be arrested an bpportunity of escape, for a police officer to enter

such place and search therein; and in order to effect an entrance into such place, to

break, open any outer or inner or window of any house or place, whether that of the

person to be arrested or of any other person, if after notification of his authority and

purpose, and demand of admittance duly made, he can not otherwise obtain admittance.

Breaking open zenana: Provided that, if any such place is an apartment in the actual

occupancy of a woman (not being the person to be arrested) who, according to custom,

does not appear in public such person or police-officer shall, before entering such

apartment notice to such woman that she is at liberty to withdraw and shall afford her

every reasonable facility for withdrawing, and may then break open the apartment and

enter it.

49. Power to break open doors and windows for purposes of liberation: Any police

officer or other person authorized to make an arrest may break open any outer or inner

door or window of any house or place in order to liberate himself or any other person who,

having lawfully entered for the purpose of making an arrest, is detained therein.

50. No unnecessary restraint: The person arrested shall not be subjected to more

restraint than is necessary to prevent his escape.

51. Search of arrested persons: Whenever a person is arrested by a police-officer

under-a warrant which does not provide for the taking of bail or under a warrant, which

provides for the taking of bail but the person arrested cannot furnish bail, and

whenever a person is arrested without warrant, or by a private person under a warrant,

and cannot legally be admitted to bail, or is unable to furnish bail.

The officer making the arrest or, when the arrest is made by a private person, the police

officer to whom he makes over the person arrested, may search such person and place in

safe custody all articles, other than necessary wearing apparel, found upon him.

52. Mode of searching women: Whenever it is necessary to cause a woman to be

searched, the search shall be made by another woman, with strict regard to decency.

53. Power to seize offensive weapons: The officer, or other person making any arrest

under Code may take from the person arrested any offensive weapons which he has

about his person, and shall deliver all weapons so taken to the Court or officer before

which or whom the officer or person making the arrest is required by this Code to produce

the person arrested.

B.—Arrest without Warrant

54. When police may arrest without warrant: (1) Any police-officer may, without an

order from a Magistrate and without a warrant arrest--

first, any person who has been concerned in any cognizable offence or against whom a

reasonable complaint has been made or credible information has been received, or a

reasonable suspicion exists of his having been so concerned;

secondly, any person having in his possession without lawful excuse, the burden of

proving which excuse shall lie on such person, any implement of house breaking;

thirdly, any person who has been proclaimed as an offender either under this Code or by

order of the Provincial Government;

fourthly, any person in whose possession anything is found which may reasonably be

suspected to be stolen property and who may reasonably be suspected of having

committed an offence with reference to such thing ;

fifthly, any person who obstructs a police-officer while in the execution of his duty, or who

has; escaped, or attempts to escape, from lawful custody ;

sixthly, any person reasonably suspected of being a

deserter from the armed forces of Pakistan;

seventhly, any person who has been concerned in, or against whom a reasonable

complaint has been made or credible information has been received or a reasonable

suspicion exists of his having been concerned in, any act committed at any place out of

Pakistan, which, if committed in Pakistan, would have been punishable as an offence and

for which he is under any law relating to extradition or otherwise liable to be apprehended

or detained in custody in Pakistan;

eighthly, any released convict committing a breach of any rule made under Section 565,

sub-section (3);

ninthly, any, person for whose arrest a requisition has been received from another police

officer, provided that the requisition specifies the person to be arrested and the offence

or other cause for which the arrest is to be made and it appears therefrom that the person

might lawfully be arrested without a warrant by the officer who issued the requisition.

(2) [Omitted byA.0., 1949, Sch.].

55. Arrest of vagabonds, habitual robbers, etc.: (1) Any officer Incharge of a police

station may in like manner, arrest or cause to be arrested--

(a) any person found taking precautions to conceal his presence within the limits of such

station, under circumstances which afford reason to believe that he is taking such

precautions with a view to committing a cognizable offence ; or

(b) any person within the limits of such station who has not ostensible means of

subsistence, or who cannot give a satisfactory account of himself; or

(c) any person who is by repute an habitual robber, house-breaker or thief, or an habitual

receiver of stolen property, knowing it to be stolen, or who by repute habitually commits

extortion or in order to the committing of extortion habitually puts or attempts to put

persons in fear of injury.

(a) [Omitted by AO, 1949, Sch.]

56. Procedure when police officer deputes subordinate to arrest without

warrant: (1) When any officer incharge of a police-station or any police-officer making an

investigation under-Chapter XIV requires any officer subordinate, to him to arrest without a

warrant (otherwise than in his presence) any person who may lawfully, be arrested

without a warrant, he shall deliver to the officer required to make the arrest, an order in

writing, specifying the person to be arrested and the offence or other cause for which the

arrest is to be made. The officer so required shall, before making the arrest, notify to the

person to be arrested the substance of the order and, if so required by such person, shall

show him the order.

(2) [Omitted by the AO., 1949, Sch.]

57. Refusal to give name and residence: (1) When any person who in the presence of a

police-officer has committed or has been accused of committing a non-cognizable offence

refuses, on demand of such officer, to give his name and residence or gives a name or

residence which such officer has reason to believe to be false, he may be arrested by

such officer in order that his name or residence may be ascertained.

(2) When the true name and residence of such person have been ascertained, he shall be

released on his executing a bond, with or without sureties to appear before a Magistrate

[having jurisdiction] if so required :

Provided that, if such person is not resident in Pakistan, the bond shall be secured by a

surety or sureties resident in Pakistan.

(3) Should the true name and residence of such person be not ascertained within twenty

four hours from the time of arrest or should he fail to execute the bond or, if so required to

furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having

jurisdiction.

Words inserted by Law Reforms Ordinance, XII of 1972.

58. Pursuit of offenders into other jurisdiction: A police-officer may, for the purpose pf

arresting without warrant any person whom he is authorized to arrest under this Chapter

pursue such person into anyplace in Pakistan.

[Explanation: In this section, '''police-officer' includes a police-officer acting under this

Code as in, force in Azad Jammu and Kashmir].

Explanation added by Code of Criminal Procedure (Amendment) Act, VIII of 1993

59. Arrest by private persons and procedure on such arrest: (1) Any private person

may arrest any person who in his view commits a non-bailable and cognizable offence, or

any proclaimed offender, and without unnecessary delay, shall make over any person so

arrested to a police-officer or, in the absence of a police-officer, take such person or cause

him to be taken in custody to the nearest police-station.

(2) If there is reason to believe that such person comes under the provisions of Section

54, a police-officer shall re-arrest him.

(3) If there is reason to believe that he has committed a non-cognizable offence, and he

refuses on the demand of a police officer to give his name and residence, or gives a name

or residence, which such officer has, reason to believe to be false, he shall be dealt with

under the provisional Section 57. If there is no sufficient reason to believe that he has

committed any offence; he shall be at once released.

60. Person arrested to be taken before Magistrate or officer incharge of policestation: A police officer making an arrest without warrant shall, without unnecessary delay

and subject to the provisions herein contained as to bail, take or send the person arrested

before a Magistrate having jurisdiction in the case or before the officer incharge of a

police-station.

61. Persons arrested not to be detained more than twenty-four hours: No policeofficer shall detain in custody a person arrested without warrant for period longer than,

under all the circumstances of the case is reasonable and such period shall not, in the

absence of a special order of a Magistrate under Section -167 exceed twenty-four hours

exclusive of the time necessary for the journey from the place of arrest to the Magistrate's

Court.

62. Police to report apprehensions: Officers incharge of police-stations shall report to

the [Zila Nazim, District Superintendent of Police and District Public Safety Commission,

set up under the Police Act, 1861 (V of 1861), simultaneously] , the cases of all persons

arrested without warrant, within the limits of their respective stations, whether such

persons have been admitted to bail or otherwise:

[Provided that in the application of this sectionto the districts where the local Government

elections have not been held or the Zila-Nazim has not assumed charge of office, any

reference in this section to the Zila Nazim shall be read as a reference to the District

Coordination Officer in relation to such districts: .

Provided further that the aforesaid proviso shall cease to have effect and shall be deemed

to have been repealed at the time when Local Governments are installed in the districts

As aforesaid.]

Substituted by Ordinance XXXVII of 2001, dt. 13.8.2001

Proviso added by Ordinance XLIII of 2001, dt. 29.8.2001

63. Discharge of person apprehended: No person who has been arrested by a police

officer shall be discharged except on his own bond, or on bail, or under the special order

of a Magistrate.

64. Offence committed in Magistrate's presence: When any offence is committed in

the presence of a Magistrate within the local limits of his jurisdiction he may himself arrest

or order any person to arrest the offender and may thereupon, subject to the provisions

herein contained as to bail commit the offender to custody.

65. Arrest by or in presence of Magistrate: Any Magistrate may at any time arrest or

direct the arrest, in his presence, within the local limits of his jurisdiction, of any person, for

whose arrest he is competent at the time and in the circumstances to issue a warrant.

66. Power, on escape, to pursue and retake: If a person in lawful custody escapes or is

rescued the person from whose custody he escaped or was rescued may immediately

pursue and arrest him in any place in Pakistan.

67. Provisions of Sections 47, 48 and 49 to apply to arrest under Section 66: The

provisions of Sections 47, 48 and 49 shall apply to arrests under Section 66, although the

person making any such arrest is not acting under a warrant and is not a police-officer

having authority to arrest.