**PART I** - **PRELIMINARY** - **CHAPTER I**

1. **Short title and commencement.** (1) This Act may be called the Code of Criminal Procedure, 1898, and It shall come Into force on the first day of July, 1898. (2) It extends to 1 [the whole of Pakistan] but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special or local law now in force, or any special jurisdiction or power conferred, or any special form of procedure prescribed, by any other law for the time being in force.
2. [Repeal of enactments, notifications, etc, under repealed Acts pending cases] Rep. by the Repealing and Amending Act, 1914 (X of 1914).
3. **Reference to Code of Criminal Procedure and other repealed enactments.** (1) In every enactment passed before this Code comes into force in which reference is made to, or to any, chapter or section of the Code of Criminal Procedure, Act XXV of 1861 or Act X of 1872, or Act X of 1882 or to any other enactment hereby repealed, such reference shall, so far as may be practicable, be taken to be made to this Code or to its corresponding chapter or section. (2) Expressions in former Acts. In every enactment passed before this Code comes into force the expressions 'Officer exercising (or 'having') the powers (or 'the full powers') of a Magistrate' 'Subordinate Magistrate, first class', and 'Subordinate Magistrate second class', shall respectively be deemed to mean 'Magistrate of the first class', 'Magistrate of the second class' and 'Magistrate of the third class', 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 and the expression 'Joint Sessions Judge' shall mean 'Additional Sessions Judge'.
4. **Definition.** (1) In this Code the following words and expressions have the following meanings unless a different intention appears from the subject or context:
5. **'Advocate-General'.** 'Advocate-General' includes also a Government Advocate or where there is not Advocate-General or Government Advocate, such officer as the Provincial Government may, from time to time, appoint in this behalf;
6. **'Bailable offence',** 'Non-bailable offence'. 'Bailable offence' means an offence shown as bailable in the second schedule, or which is made bailable by any other law for the time being in force; and 'non-bailable offence' means any other offence:
7. **'Charge'.** 'Charge' includes any head of charge when the charge contains more heads than one:
8. [Rep. by the Repealing and amending Act, 1923 (Act XI of 1923)}
9. [Omitted by Law Reforms Ordinance, 1972}.
10. **'Cognizable offence'.** Cognizable case'. 'Cognizable offence' means an offence for, and 'cognizable case' means a case in, which a police officer, may, in accordance with the second schedule or under any law for the time being in force, arrest without warrant;
11. Omitted by A.O. 1949.
12. **'Complaint'.** 'Complaint' means the allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person whether known or unknown, has committed an offence, but it does not include the reports of a police-officer;
13. Omitted by Act II of 1950.
14. **'High Court'.** 'High Court' means the highest Court of criminal appeal or revision for a Province:
15. **'Inquiry'.** 'Inquiry' includes every inquiry other than a trial conducted under this Code by a Magistrate or Court;
16. **'Investigation'.** 'Investigation' includes all the proceedings under this Code for the collection of evidence conducted by a police-officer or by any person (other than a Magistrate) who is authorized by a Magistrate in this behalf;
17. **'Judicial proceeding'.** 'Judicial proceeding' includes any proceeding in the course of which evidence is or may be legally taken on oath;
18. **'Non-cognizable offence':** 'Non-cognizable case'. 'Non-cognizable offence means an offence for, and 'non-cognizable case' means a case in, which a police officer, may not arrest without warrant;
19. **'Offence',** 'Offence' means any act or omission made punishable by any law for the time being in force; it also includes any act in respect of which a complaint may be made under section 20 of the Cattle Trespass Act, 1871.

**Offence-** The word 'offence' as defined in the Code means any act or omissions made punishable by any law for the time being enforced apart those from under PPC. 1991 Cr.L.J. 1476 (Ind). An offence is constituted as soon as the act which constitute that offence have been committed. It remains an offence whether it is triable by a Court or not and the fact that the trial of the offence can only be taken up after certain specified conditions are fulfilled does not make it any the less an offence. AIR 1967 S.C. 528. There is nothing wrong in law to regard a single act of firing at two persons as one offence. AIR 1952 S.C.

45. However, an act or omission is an offence only if it is made punishable by any law for the time being in force 1931 P.C. 94.

1. **'Officer in charge of a police-station'.** 'Officer in charge of a police-station' includes, when the officer in charge of the police-station is absent from the station-house or unable from illness or other cause to perform his duties, the police-officer present at the station-house who is next in rank to such officer and is above the rank of constable or, when the Provincial Government so directs, any other police-officer so present;
2. **'Place'.** 'Place' includes also a house, building, tent and vessel:
3. **'Pleader'.** 'Pleader', used with reference to any proceeding in any Court, means, a pleader or a mukhtar authorized under any law for the time being in force to practice in such Court, and includes (1) an

advocate, a vakil and an attorney of a High Court so authorized, and (2) any other person appointed wit the permission of the Court to act in such proceeding;

**Pleader-** With reference to any proceedings in the Court a pleader means a pleader or Mukhtar authorised under law for the time being in force and includes:

1. An advocate;
2. A vakeel or any attorney of High Court so authorised;
3. Any other person appointed with the permission of the Court. A co-accused can act as pleader if so permitted. AIR 1962 Pat 244. Private person must get the prior permission. 1991 P.Cr.L.J. 2425. The discretion of the Court in permitting person to appear as 'pleader' must be exercised judicially with due regard to the interest of the party engaging him. AIR 1978 S.C. 1019; 1978 Cr.L.J. 778.

A power of attorney authenticated by fail authorities is a valid document. 1991 P.Cr.L.J. 25. A constituted attorney can appear for the accused. 1991 P.Cr.L.J. 2425.

1. **'Police-station'.** 'Police-station' means any post or place declared generally or specially, by the Provincial Government to be a Police Station and includes any local area specified by the Provincial Government in this behalf:

**Police station**-Police station is a place declared generally or specifically by the provincial Government to be a police station and includes any local area so specified except a beat-house. AIR 1960 Cal 519. Does not include vehicle. (1963) 3 SCR 386. Detention in a tee other than notified is illegal. PLD 1965 Lah 324.

1. **'Public Prosecutor'.** Public Prosecutor' means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor and any person conducting a prosecution on behalf of the State in any High Court in the exercise of its original criminal jurisdiction:

**Public prosecutor**-Public Prosecutor means any person appointed u/s. 492 and includes Assistant Public Prosecutor and any person conducting prosecution under Public Prosecutor. PLD 1960 Dacca 783. He is bound to assist the Court with his fairly considered view and the Court is entitled to have the benefit of the fair exercise of his function. AIR 1957 S.C. 389. Government advocate under instructions of the Advocate General who is appointed u/s 492 to be Public Prosecutor for all cases in the High Court is a Public Prosecutor. 1966 Raj. Law Weekly 300; 1981 S.C. Cr. R. 301. Additional Government Advocate appointed as a public Prosecutor is a Public Prosecutor lawfully empowered to present appeal in the High Court against orders of acquittal. AIR 1971 S.C. 1977. A private pleader instructed by a private party will not be permitted to conduct prosecution. 1991 Mad. L.J. Cr. 624.

1. **'Sub-division'.** 'Sub-division' means a sub-division of a district.

[Clauses (v) and (w) of Subsection (1) of Section 4 omitted by Law Reform Ordi. 1972.]

# Province of Punjab

Omission of clauses (e) (v) & (w) by Law Reforms Ordinance 1972. item No. 1 enforced w.e.f. 26.12.1975 vide No. Judl. 1-3(2)/75 dated 26.12.1975.

(2) **Words referring to acts.** Words which refer to acts done, extend also to illegal omission; and

**Words to have same meaning as in Pakistan Penal Code.** All words and expression used herein and defined in the Pakistan Penal Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by the Code.

**5. Trial of offences under Penal Code.** (1) All offences under the Pakistan Penal Code shall be investigated, inquired into, tried, and otherwise dealt with according to the provisions hereinafter contained.

(2) **Trial of offences against other laws.** All offences under any other law shall be investigated, inquired into, tried, and otherwise dealt with according to the same provisions, but subject to any enactment for the time being in force regulating the manner or place of investigating, inquiring into, trying or otherwise dealing with such offences.

# PART II - CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES - CHAPTER II - OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES

1. **Classes of Criminal Courts**

**[6. Classes of Criminal Courts and Magistrates:-**-

1. Besides the High Courts and the Courts constituted under any law other than this Code for the time being in force, there shall be two classes of Criminal Courts in Pakistan, namely:
2. Courts of Session;
3. Courts of Magistrates.
4. There shall be the following classes of Magistrates, namely:
	1. Judicial Magistrates:--
		1. Magistrates of the first class.
		2. Magistrates of the second class.
		3. Magistrates of the third class.
		4. Special Judicial Magistrate.
	2. Executive Magistrates:-
		1. District Magistrates.
		2. Additional District Magistrates.
		3. Sub-Divisional Magistrates.
		4. Special Executive Magistrates.'] [(5) Magistrates of the first class.
5. Magistrates of the second class.
6. Magistrates of the third class.]

# Territorial Divisions

1. **Sessions divisions and districts.** (1) Each Province shall consist of session; and every session divisions shall, for the purposes of this Code, be a district or consist of districts.
2. **Power to alter divisions and districts.** The Provincial Government may alter the limits or the number of such divisions and districts.
3. **Existing divisions and districts.** The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.
4. **Power to divide districts into sub-divisions.** (1) The Provincial Government may divide any district into sub-divisions, or make any portion of any such district a sub-division, and may alter the limits of any sub-division.

(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.

# Courts and Offices

1. **Court of Sessions.** (1) The Provincial Government shall establish a Court of Session for every session division, and appoint a judge of such Court.
2. The Provincial Government may, by general or special order in the official Gazette, direct at what place or places the Court of Session shall hold its sitting; but until such order is made, the Court of Session shall hold their sittings as heretofore.
3. The Provincial Government may also appoint Additional Sessions Judges and Assistant Session Judges to exercise jurisdiction in one or more such Courts.
4. Sessions Judge of one sessions division may be appointed by the Provincial Government to be also an Additional Session Judge of another division, and in such case he may sit for the disposal of cases at such place or places in either division as the Provincial Government may direct.
5. All Courts of Session existing when this Code comes into force shall be deemed to have been established under this Act.

# [10. District Magistrate:

1. In every district the Provincial Government shall appoint a District Magistrate
2. The Provincial Government may also appoint Additional District Magistrate to exercise jurisdiction in one or more Districts and such Additional District Magistrates shall have all or any of the 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 the purposes of section 192, sub-section (1) and section [407, sub-section (2) such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate].

**District Magistrate-** District Magistrate is not one of the Courts established under Cr.P.C. District Magistrate occupies dual position, he is the Chief Executive, Incharge of the administration of the District and as Magistrate of the First Class, he may exercise the powers conferred upon such Magistrate by the Cr.P.C. PLD 1988 Lah 352

Additional District Magistrate-District Magistrate a/one authorised by legislature to do certain acts. Additional District Magistrate is not empowered to exercise District Magistrate's power under S. 10(2), Cr.P.C. PLD 1958 Dacca 425. However, Additional District Magistrate is competent to exercise powers even after his transfer to some equal or higher office in same local area. PLD 1962 Lah 939.

1. **Officers temporarily succeeding to vacancies in office of District Magistrate.** Whenever in consequence of, the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive administration of the district, such officer shall, pending the orders of the Provincial Government, exercise all the powers and perform all the duties respectively conferred and imposed by the Code on the District Magistrate.

**Additional Deputy Commissioner**-Additional Deputy Commissioner as Chief Executive of District and Magistrate 1st Class can pass order under S. 144(1). 1980 P.Cr.L.J.851.

1. **[Subordinate] Magistrates.** (1) The Provincial Government may appoint as many persons as it thinks fit [\*\*\*] to be Magistrates of the first, second or third class in any district and may from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

(2) **Local limits of their jurisdiction.** Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district.

**[Province of Balochistan.** The Government of Balochistan has fixed the limits of territorial jurisdiction for the Judicial Magistrates appointed in each Sessions Division to be the same as the territorial limits of the Sessions Divisions fixed vide Notification No.US(Judl)5(7)/87/674-716, dated the 28th February, 1994.

1. The Judicial Magistrate(s) appointed in a Session Division shall have the jurisdiction throughout that Division subject to the powers conferred upon them under section 12 of the Code of Criminal Procedure, 1898, as amended by the Law Reforms Ordinance, 1972, and further amended by the Law Reforms (Amendment) Ordinance, 1996, (XL of 1996).
2. Wherever, in any of the Sessions Divisions the number of Judicial Magistrates is more than one, the Sessions Judge of the Division, shall distribute the business amongst the Judicial Magistrates. (Gazette Extra dated 22nd March, 1996, PLD 1997 Bal. St. 5)].

**Jurisdiction of Magistrate.** Jurisdiction of Magistrate extends throughout District unless restricted by order. [71 DLR 839] It is essential that offence must be shown to be triable by Magistrate in the Schedule. [1972 P.Cr.L.J. 233]

**Balochistan Province-**See Notification No.US (Judl)4(10)/94/Vol.I, dated 22.3.1996. For text see Cr.P.C. by the same Author. .

**13. Power to put [Magistrate] in charge of sub-division.** (1) The Provincial Government may place any [Executive Magistrate] in charge of a sub-division, and relieve him of the charge as occasion requires.

1. Such Magistrates shall be called Sub-Division Magistrates.
2. **Delegation of powers to District Magistrate.** The Provincial Government may delegate its powers under this section to the District Magistrate.

# [14. Special Judicial and Executive Magistrates.

1. The Provincial Government may on the recommendation of the High Court, confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Judicial Magistrate in respect to particular cases or to a particular class or particular classes of cases, or in regard to cases generally in any local area.
2. Such Magistrates shall be called Special Judicial Magistrates, and shall be appointed for such term as the Provincial Government may, in consultation with the High Court by general or special order, direct.
3. The Provincial Government may also appoint Executive Magistrate for particular areas or for performance of particular functions and confer upon them 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 grade of Assistant Superintendent, and no powers 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 the 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).']
6. **Benches of Magistrates.** (1) The Provincial Government may direct any two or more [Judicial Magistrates] in any place to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under this Code on Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or such classes only, and within such local limits, as the Provincial Government thinks fit.

(2) **Powers exercisable by Bench in absence of special direction.** Except as otherwise provided by any order under this section every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members, who is present taking part in the proceedings as a member of the Bench, belongs, and as for as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

1. **Power to frame rules for guidance of Benches.** The Provincial Government may ' from time to

time, make rules consistent with this Code for the guidance of Magistrates, Benches in any district respecting the following subjects:

1. the classes of cases to be tried:
2. the times and places of sitting;
3. the constitution of the Bench for conducting trials;
4. the mode of settling differences of opinion which may arise between the Magistrates in session.

# ['Subordination of Judicial Magistrates and Benches to Sessions Judge.

1. All Judicial Magistrates appointed under sections 12 and 14 and all Benches constituted under section 15 shall be subordinate to the Sessions Judge, and he may from time to time, make rules or give special orders consistent with this Code and any rules framed by the Provincial Government under section 16, as to the distribution of business among such Magistrates and Benches,
2. Subordination of Executive Magistrates to District Magistrate. All Executive Magistrates appointed under section i3[i2] 13 and 14 shall be subordinate to the District Magistrate and he may, from time to time, make rules or give special orders consistent with this Code and any rules framed by the Provincial Government under section 16, as to the distribution of business among such Magistrates.

(2-A) Subordination of Executive Magistrates to Sub-Divisional Magistrate.-Every Executive Magistrate (other than a Sub-Divisional Magistrate) in a sub-Division shall also be subordinate to the Sub-Divisional Magistrate, subject, however, to the general control of the District Magistrate',]

1. Subordination of Assistant Sessions Judges to Sessions Judge. All Assistant Judges shall be subordinate to the Session Judge in whose Court they exercise jurisdiction, and he may, from time to time, make rules consistent with his Code as to the distribution of business among such, Assistant Sessions Judges.
2. The Session Judge may also when he himself is unavoidably absent or incapable of acting, make provision for the disposal of any urgent application by an Additional or Assistant Sessions Judge and

such Judge shall have jurisdiction to deal with any such application.

# Courts of Presidency Magistrates

**18 to 21.** Appointment of Presidency Magistrates. Benches Local limits of jurisdiction, Chief Presidency Magistrate. Omitted by A.O., 1949 Sch.

# E-Justice of the Peace

**[22.** A Provincial Government so far as regards the territories subject to its administration may by notification in the official Gazette, appoint such persons resident within Pakistan and not being the subjects of any foreign State as it thinks fit to be justices of the Peace within and for the local area mentioned in such notification.]

# Punjab Amendment

**[22. Appointment of Justices of the Peace.** The Provincial Government may, by notification in the official Gazette, appoint for such period as may be specified in the notification, and subject to such rules as may be made by it any person who is a citizen of Pakistan and as to whose integrity and suitability it is satisfied, to be a Justice of the Peace for a local area to be specified in the notification, and more than one Justice of the Peace may be appointed for the same local area.

**22-A. Powers of Justice of the Peace.** (1) A Justice of the Peace for any local area shall, for the purpose of making an arrest, have within such area all the powers of a Police Officer referred to in section 54 and an officer in-charge of a police-station referred to in section 55.

1. A Justice of the Peace making an arrest in exercise of any powers under subsection (1) shall, forthwith, take or cause to be taken the person arrested before the officer in-charge of the nearest police-station and furnish such officer with a report as to the circumstances of the arrest and such officer shall thereupon re- arrest the person.
2. A Justice of the Peace for any local area shall have powers, within such area, to call upon any member of the police force on duty to aid him:
	1. in taking or preventing the escape of any person who has participated in the commission of 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 so participated; and
	2. in the prevention of crime in general and, in particular, in the prevention of a breach of the peace or a disturbance of the public tranquillity.
3. Where a member of the police force on duty has been called upon to render aid under subsection (3), such call shall be deemed to have been made by a competent authority.
4. A Justice of the Peace for any local area may, in accordance with such rules as may be made by the Provincial Government:
5. issue a certificate as to the identity of any person residing within such area, or
6. verify any document brought before him by any such person, or
7. attest any such document required by or under any law for the time being in force to be attested by a Magistrate, and until the contrary is proved, any certificate so issued shall be presumed to be correct and any document so verified shall be deemed to be duly verified, and any document so attested shall be deemed to have been as fully attested as if he had been a Magistrate.

**22-B. Duties of Justices of the Peace.** Subject to such rules as may be made by the Provincial Government, every Justice of the peace for any local area shall,

1. on receipt of information of the occurrence of any incident involving a breach of the peace, or of the commission of any offence within such local area, forthwith make inquiries into the matter and report in writing the result of his inquiries to the nearest Magistrate and to officer in charge of the nearest police- station.
2. if the offence referred to in clause (a) is a cognizable offence, also prevent the removal of any thing from, or the interference in any way with, the place of occurrence of the offence;
3. when so required in writing by a police-officer making an investigation under Chapter XIV in respect of any offence committed within such local area.
4. render all assistance to the police-officer making such an investigation.
5. record any statement made under expectation of death by a person in respect of whom a crime is believed to have been committed'.]

**23 & 24. Justice of the Peace for the Presidency-towns.** Present Justices of the Peace. Rep. by the Criminal Law Amendment Act, 1923 (XII of 1923) S. 4.

**25. Ex-officio Justice of the Peace.** In virtue of their respective offices, the Judges of the High Courts are Justice 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.

# F. Suspension and Removal

**26 & 27. Suspension and removal of Judges and Magistrates.** Suspension and removal of Justices of the Peace. Rep. by A.O., 1937.