

# **The Punjab Separation of Judicial and Executive Functions Act, 1964**

HARYANA

India

## **The Punjab Separation of Judicial and Executive Functions Act, 1964**

### **Act 25 of 1964**

- Published on 29 September 1964
- Commenced on 29 September 1964
- [This is the version of this document from 29 September 1964.]
- [Note: The original publication document is not available and this content could not be verified.]

The Punjab Separation of Judicial and Executive Functions Act, 1964 Punjab Act No. 25 of 1964 Statement of Objects and Reasons. - Article 50 of the Constitution of India requires the States to take steps to separate the judiciary from the executive in the public service of the State. The Bill seeks to achieve that object. 2. At present in Patiala Division of Punjab there is separation of the judiciary from the executive which was affected through an executive order. Some provisions of the Patiala and East Punjab States Union Judicature Ordinance, 2005 Bk. (1948 A. D.) also vest, the control over civil and criminal courts in the area of the erstwhile Patiala and East Punjab States Union in the High Court. Cases relating to prevention of offences under sections 107, 108, 109 and 110 of the Code of Criminal Procedure, 1898, are, however, being dealt with by Executive Magistrates under the control of the District Magistrates, though appeals in such cases lie to Courts of Sessions. In addition, some powers, such as making orders in cases of local nuisance, disputes relating to possession of immovable property, granting of remands to police custody, taking bail and holding of inquests are being exercised by them. 3. In the Ambala and Jullundur Divisions, in the districts of Gurgaon, Ambala, Simla, Hoshiarpur and Jullundur, there is practical separation of the judiciary from the executive. In these districts criminal cases other than those relating to prevention of offences, are being tried by Judicial Magistrates under the control of the District Magistrates. 4. The Law Commission of India in their Fourteenth Report (Vol. II Chapter 41, pages 859 and 860) have observed that the separation of the judiciary from the executive "has worked satisfactorily where it has been introduced and its introduction has not led to any difficulties in the executive officers being able to maintain law and order". They have, therefore, recommended that the scheme should be put into operation in States where it may not have been already introduced. Further, the Commission have expressed the view that it will be desirable to appoint District Magistrates (Judicial) for purposes of exercising effective supervision and control over subordinate Magistrates and that the separation should be brought about through legislation on the model of the Bombay Separation of Judicial and Executive Functions Act, 1951. 5. The bill has been prepared on the lines

of the aforesaid Bombay Act but in some respects widens the powers of Judicial Magistrates. The suggestion of the Law Commission regarding the appointment of District Magistrates (Judicial) has been incorporated in the Bill in a slightly modified form, to suit local conditions. Provision has been made for appointment of Additional District Magistrates (Judicial) who are to perform all the supervisory and controlling functions over subordinate Judicial Magistrates.<sup>6</sup> Some of the salient features of the Bill are stated below :-(i) Two classes of Magistrates in the State, to be called Judicial Magistrates and Executive Magistrates, have been provided. Additional District Magistrates (Judicial) of the First and Second Class and Special Judicial Magistrates have been classified as "Judicial Magistrates". On the executive side provision has been made for District Magistrates, Sub-Divisional Magistrates and Executive Magistrate of the First and Second Class.(ii) Additional District Magistrates (Judicial) are intended to exercise almost all the powers at present vested in the District Magistrates.(iii) District Magistrates are to supervise and control the work of other Executive Magistrates and exercise the limited powers left with them as enumerated in Part III of the Third Schedule of the Code of Criminal Procedure, 1898, sought to be substituted by the Bill.(iv) Judicial Magistrates, including Additional District Magistrates (Judicial) are to be members of the State Judicial Service and are intended to be invested with powers of Judicial Magistrates of different classes by the High Court.(v) Provision has been made as a transitional measure, for a period not exceeding six months from the date the Bill is enacted and enforced for the State Government to appoint Judicial Magistrates out of the members of the Punjab Civil Service (Executive Branch) in consultation with the High Court. The existing strength of the Provincial Civil Service (Judicial) Branch not being adequate for providing the personnel required to work as Judicial Magistrates some suitably qualified persons will be selected from the Executive Branch of the Service for being permanently absorbed in the State Judicial Service. During the transitional period stated above, it is intended to complete all necessary formalities and to increase the strength of the Judicial Service to the required level.(vi) Provision has been made for the issue of a public notification under Article 237 of the Constitution of India. Such a notification would invest in the High Court control over the Judicial Magistrates including their postings and promotions and grant of leave to them.(vii) A residuary provision has been made in section 38-A proposed to be inserted in the Code of Criminal Procedure, 1898, in its application to the State of Punjab, to enable the High Court to invest Judicial powers under the said Code, or any other law for the time being in force, relating to any of the matters specified in Lists II and III of the Seventh Schedule of the Constitution of India in Sessions Judges, Additional or Assistant Sessions Judges or Judicial Magistrates notwithstanding that according to the existing provisions such powers are not exercisable by the said officers. It is further provided that the question whether any powers are judicial will be decided by the High Court, whose decision shall be final.(viii) Powers regarding cases relating to the prevention of offences under sections 107, 108, 109 and 110 are provided to be entrusted to Executive Magistrates. Similarly powers under sections 127, 128, 129, 130, 131, 132, 133, 143, 144, 145, 146 and 147 of the said Code are also intended to be entrusted to Executive Magistrates.(ix) Powers under section 88 of the said Code regarding the hearing and disposal of claims or objections to the attachment of property of absconding person and under section 164 thereof regarding recording of statements and confessions are proposed to be given to Judicial Magistrates alone.(x) For section 406 of the said Code it is proposed to substitute a new section providing for hearing of appeal against orders refusing to accept or rejecting a surety under section 122 by a Court of Sessions Judge instead of a District Magistrate.(xi) Revisional powers under section 435 and powers

to order inquiry under section 436 of the said Code are proposed to be given to Additional District Magistrates (Judicial) in respect of proceedings before other Judicial Magistrates, District Magistrates are intended to exercise these powers only in respect of proceedings before Executive Magistrates.(xii) Order passed under section 514 of the said Code are proposed to be made appealable to Sessions Judge, or, if not so appealed, to be revised by him.(xiii) Besides the Code or Criminal Procedure, 1898, it is also proposed to amend twenty Central Acts in their application to the State of Punjab, and forty-five Punjab Acts, in order to make offences under those Acts triable by Judicial Magistrates.(xiv) It is proposed to repeal the provisions of the Patiala and East Punjab States Union Judicature Ordinance, 2005 Bk. (1948 A.D) relating to classes, constitution, powers, practice and procedure of criminal Courts, as they will be rendered superfluous. The previous operation of these provisions is being saved.Received the assent of the President of India on the 29th September, 1964, and first published for general information in the Punjab Government Gazette (Extraordinary), Legislative Supplement, of September 30, 1964.An Act to provide for the separation of judicial and executive functions in the State of Punjab.Be it enacted by the Legislature of the State of Punjab in the Fifteenth Year of the Republic of India as follows :-

## **1. Short title, extent and commencement.**

(1)This Act may be called the Punjab Separation of Judicial and Executive Functions Act, 1964.(2)It extends to the whole of the State of Punjab.(3)It shall come into force on such date as the State Government may by notification specify in this behalf ; and different dates may be specified for different areas.

## **2. Amendments to enactments.**

- The Central Acts specified in Parts I and II of the Schedule appended to this Act (hereinafter called the Schedule), in their application to the State of Punjab, and the Punjab Acts specified in Part III of the Schedule are hereby amended to the extent mentioned in the fourth column of the Schedule.

## **3. Amendments not to render invalid notifications, orders, etc., issued before commencement of Act.**

- The provisions of this Act which amend any Act specified in the Schedule so as to alter the manner in which, the authority by which, or the law under or in accordance with which, any powers are exercisable, shall, not render invalid any notification, order, commitment, attachment, bye-law, rule or regulation, duly made or issued or anything duly done before the commencement of this Act; and any such notification, order, commitment, attachment, bye-law, rule or regulation or thing may be revoked, varied or undone in the like manner, to the like extent and in the like circumstances, as if it had been done after the commencement of this Act by the competent authority and in accordance with the provisions then applicable to such a case.

#### **4. Saving.**

(1) Save as provided in this section, nothing in this Act shall be deemed to affect - (a) the validity, invalidity, effect or consequence of anything done or suffered to be done before the date on which the provisions of this Act come into force; (b) any right, privilege, obligation or liability already acquired, accrued or incurred before such date; (c) any penalty, forfeiture or punishment incurred or inflicted in respect of any act before such date; (d) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment; and any such investigation, legal proceeding or remedy may be instituted, continued, or enforced and any such penalty, forfeiture or punishment may be imposed in accordance with the provisions of the relevant enactments as amended by this Act. (2) All legal proceedings pending before a Magistrate or Court on the date on which this Act comes into force shall, if such Magistrate or Court ceases to have jurisdiction in respect of such proceedings under the provisions of the relevant enactments as amended by this Act, stand transferred to the Magistrate or Court having jurisdiction under the provisions of the relevant enactments as amended by this Act and shall be heard and disposed of by such Magistrate or Court and such Magistrate and Court shall have all the powers and jurisdiction thereof as if they had been originally instituted before such Magistrate or in such Court, including the power of the succeeding Magistrate under section 350 of the Code of Criminal Procedure, 1898.

#### **5. Power to remove difficulties.**

- If any difficulty arises in giving effect to the provisions of this Act, the State Government, in consultation with the High Court, may by order do anything, not inconsistent with such provisions and for the furtherance of the purposes of this Act which appear to it to be necessary or expedient for the purpose of removing the difficulty.

#### **6. Repeal.**

- The provisions of the Patiala and East Punjab States Union Judicature Ordinance, 2005 BK. (Pepsu Ordinance 10 of 2005 BK.), relating to the classes, constitution, powers, practice and procedure of criminal courts are hereby repealed : Provided that the repeal shall not affect - (a) the previous operation of any provision so repealed or anything duly done or suffered thereunder ; or (b) any right, privilege, obligation or liability acquired, accrued or incurred under any provision so repealed ; or (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any provision so repealed ; or (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed : Provided further that anything done or any action taken under any provision so repealed shall be deemed to have been done or taken under the corresponding provision of the Code of Criminal Procedure, 1898, as amended by this Act, and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under the said Code, as amended by this Act.

## Schedule

(See section 2)

### **Part I – . - The Code of Criminal Procedure, 1898. Short title and Extent of Amendment**

#### **1. For section 6, the following shall be substituted, namely :-**

"6. Classes of Criminal Courts. - Besides the High Court 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 the State of Punjab, namely :-I. Courts of Session.II. Courts of Magistrates".

#### **2. After section 6, the following shall be inserted, namely :-**

"A-I. Classes of Magistrates.

#### **6.**

-A. Classes of Magistrate. - There shall be the following classes of Magistrates, namely :-I. Judicial Magistrates.(1)Chief Judicial Magistrates.(2)Judicial Magistrates of the first class.(3)Judicial Magistrates of the second class,(4)Special Judicial Magistrates.II. Executive Magistrates.(1)District Magistrates.(2)Sub-divisional Magistrates.(3)Executive Magistrates of the first class.(4)Executive Magistrates of the second class."

#### **3. For section 7, the following shall be substituted, namely :-**

"7. Sessions divisions and districts. - (1) The State of Punjab shall consist of sessions divisions ; and every sessions division shall, for the purposes of this Code, be a district or part of a district or consist of districts.(2)The State Government in consultation with the High Court, may alter the limits or the number of such divisions and districts.(3)The sessions divisions and districts existing when the Punjab Separation of Judicial and Executive Functions Act, 1964, comes into force shall be sessions divisions and districts, respectively, unless and until they are so altered."

#### **4. In section 9, -**

(i)in sub-section (1), after the words "sessions divisions, and," the words "in consultation with the High Court" shall be inserted ;(ii)in sub-section (2), after the words "State Government", the words "in consultation with the High Court" shall be inserted ;(iii)in sub-section (3), after the words "may also", the words "in consultation with the High Court" shall be inserted ; and(iv)in sub-section (4), after the words "State Government", occurring twice, the words "in consultation with the High Court" shall be inserted.

## **5. In section 10, -**

(i) in sub-section (1), for the words "a Magistrate", the words "and Executive Magistrate" shall be substituted ; and after that sub-section as so amended, the following sub-section shall be inserted, namely :-(1A) In every district the High Court shall invest a Judicial Magistrate of the first class with the powers of a Chief Judicial Magistrate under this Code or any other law for the time being in force." (ii) in sub-section (2), for the words "any Magistrate of the first class to be an Additional District Magistrate", the words "any Executive Magistrate of the first class to be an Additional District Magistrate" shall be substituted ; and (iii) the marginal heading shall be substituted by the following, namely :-"District Magistrate and Chief Judicial Magistrate".

## **6. For section 12, the following shall be substituted, namely :-**

"12. Executive and Judicial Magistrates. - (1) The State Government may appoint as many persons as it thinks fit besides the District Magistrate, to be Executive Magistrates of the first or second class in any district, and the State Government or the District Magistrate, subject to the control of the State Government, 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) The High Court may confer on any person who is a member of the Punjab Civil Service (Judicial Branch) the powers of any class of a Judicial Magistrate in any district : and the High Court or the Chief Judicial Magistrate, subject to the control of the High Court, may, from time to time, define local areas within which he may exercise all or any of the powers with which he may be invested under this Code. (3) The State Government in consultation with the High Court, may, for such period not exceeding six months from the commencement of the Punjab Separation of Judicial and Executive Functions Act, 1964, as it may think fit, appoint as many persons who are members of the Punjab Civil Service (Executive Branch) as may be considered necessary to be Judicial Magistrates in any district; and the State Government, in consultation with the High Court, may 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. (4) Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district. (5) The power of appointment of Judicial Magistrates under sub-sections (2) and (3) shall, on the issue of a public notification under Article 237 of the Constitution of India, be exercised subject to the terms of the said notification."

## **7. In sub-section (1) of section 13, for the word "Magistrate", the words "Executive Magistrate" shall be substituted.**

## **8. For section 14, the following shall be substituted, namely :-**

"14. Special Judicial Magistrates. - The State Government may, in consultation with the High Court, confer upon any person who holds or has held any judicial post under the Union or a State or possesses such other qualifications as may, in consultation with the High Court, be specified in this behalf by the State Government by notification in the Official Gazette, all or any of the powers

conferred or conferable by or under this Code on a Judicial Magistrate in respect to particular cases or to a particular class of cases, or in regard to cases generally in any local area. Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such term as the State Government may, in consultation with the High Court, by general or special order, direct."

**9. For sub-section (1) of section 15, the following shall be substituted, namely :-**

"(1) The High Court may direct any two or more Judicial Magistrates in any place in the State of Punjab to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferable by or under this Code on a Judicial Magistrate of the first or second class, and direct it to exercise such powers in such cases, or, such classes of cases only, and within such local limits, as the High Court thinks fit".

**10. In section 16, -**

(i)for the words "The State Government may, or, subject to the control of the State Government, the District Magistrate", the words "The High Court, subject to the approval of the State Government", shall be substituted; and(ii)for the words "Magistrates' Benches", the words "Judicial Magistrates' Benches" shall be substituted.

**11. For section 17, the following sections shall be substituted, namely:-**

"17. Subordination of Assistant Sessions Judges, Judicial Magistrates and Benches to Sessions Judge and Chief Judicial Magistrate. - (1) All Judicial Magistrates appointed under sub-sections (2) and (3) of section 12 and section 14 and all Benches constituted under section 15, shall, subject to the control of the Sessions Judge be subordinate to the Chief Judicial Magistrate, and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches.(2)All Chief Judicial Magistrates shall be subordinate to the Sessions Judge.(3)All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction and he may, from time to time make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges.(4)The Sessions 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 or, if there be no Additional or Assistant Sessions Judge, by the Chief Judicial Magistrate, and such judge or Magistrate shall have jurisdiction to deal with any such application.

**17.**

-A. Subordination of Executive Magistrates. - (1) All Executive Magistrates appointed under sub-section (1) of section 12 and section 13 shall be subordinate to the District Magistrate and every Executive Magistrate (other than a Sub-divisional Magistrate) exercising powers in a Sub-division shall also be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of

the District Magistrate.(2)The Divisional Magistrate may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among the Executive Magistrates subordinate to him and as to allocation of business to an Additional District Magistrate.

**17.**

-B. Courts inferior to the High Court and Court of Sessions. - Courts of Sessions and Courts of Judicial and Executive Magistrates shall be Criminal Courts inferior to the High Court and Courts of Judicial and Executive Magistrates shall be Criminal Courts inferior to the Court of Session."

**12. In section 29-B for the words "a District Magistrate or a Chief Presidency Magistrate, or any Magistrate specially empowered by the State Government", the words "a Chief Judicial Magistrate or any other Judicial Magistrate specially empowered by the High Court" shall be substituted.**

**13. For section 30, the following shall be substituted, namely :-**

"30. Offences punishable with imprisonment not exceeding seven years. - Notwithstanding anything contained in section 28 or section 29, the High Court may invest any Chief Judicial Magistrate or any other Judicial Magistrate of the first class with power to try as a Judicial Magistrate all offences not punishable with death or with imprisonment for life or with imprisonment for a term exceeding seven years :Provided that no Chief Judicial Magistrate or Judicial Magistrate of the first class shall be invested with such powers unless he has, for not less than ten years, exercised as a Magistrate powers not inferior to those of a Magistrate of the first class."

**14. In the marginal heading of section 34, for the word "District" the word "Judicial" shall be substituted.**

**15. In section 36, after the words "District Magistrate", the words "Chief Judicial Magistrates" shall be inserted; and for the words "Magistrates of the first, second and third classes" the words "Judicial and Executive Magistrates other than Special Judicial Magistrates" shall be substituted.**

**16. For sections 37 and 38, the following shall be substituted, namely:-**

"37. Additional powers conferable on Magistrates. - In addition to his ordinary powers -(i)the High Court may invest any Judicial Magistrate with any of the powers as specified in Part I of the Fourth Schedule;(ii)a Chief Judicial Magistrate may invest any other Judicial Magistrate within his local jurisdiction with the powers specified in Part I of the Fourth Schedule;(iii)the State Government may invest any Executive Magistrate with any of the powers as specified in Part II of the Fourth Schedule; and(iv)a District Magistrate may invest any Executive Magistrate within his local jurisdiction with the powers specified in Part II of the Fourth Schedule.



**38. Exercise of powers under section 37 by Chief Judicial Magistrate or District Magistrate to be subject to control of High Court or State Government. - The power conferred by clause (ii) of section 37 shall be exercised subject to the control of the High Court and the power under clause (iv) of that section shall be exercised subject to the control of the State Government".**

**17. After section 38, the following section shall be inserted, namely :-**

"38-A. Powers on Judicial Magistrates to be conferred in consultation with the High Court. - Whenever, under any provisions of this Code or of any law for the time being in force relating to any of the matters specified in lists II and III of the Seventh Schedule to the Constitution, any Judicial powers are to be conferred on a Sessions Judge, or an Additional or, Assistant Sessions Judge or a Chief Judicial Magistrate or any other Judicial Magistrate or any such Magistrate is to be specially empowered to exercise such powers, the orders conferring such powers or empowering the exercise of such powers shall be made by the High Court notwithstanding that such provision may not expressly so provide. Explanation - For the purposes of this section, the question whether any powers are judicial shall be decided by the High Court and such decision shall be final."

**18. In sub-section (1) of section 39, for the words "the State Government", the words "the State Government or the High Court, as the case may be," shall be substituted.**

**19. In section 40, for the words "the State Government", occurring for the second time, the words "the State Government or the High Court, as the case may be," shall be substituted.**

**20. In section 41, -**

(i) in sub-section (1), after the words "the State Government", the words "or the High Court, as the case may be," shall be inserted ; and (ii) for sub-section (2), the following sub-section shall be substituted, namely:-(2) Any powers conferred by the Chief Judicial Magistrate or the District Magistrate may be withdrawn by him."

**21. In sub-section (2) of section 57, for the words "a Magistrate", the words "a Judicial Magistrate having jurisdiction" shall be substituted.**

**22. In section 63, for the word "Magistrate" the words "Magistrate having jurisdiction" shall be substituted.**

**23. For sub-section (1) of section 78, the following shall be substituted, namely :-**

"(1) A District Magistrate or a Chief Judicial Magistrate or a Sub-divisional Magistrate or any other Judicial Magistrate of the first class may direct a warrant to any landholder, farmer or manager of land within the area of his jurisdiction for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit."

**24. In section 88, -**

(a) in sub-section (2), after the words "District Magistrate", the words "or Chief Judicial Magistrate" shall be inserted ; (b) in sub-section (6B), after the words "District Magistrate", the words "or Chief Judicial Magistrate" shall be inserted ; and (c) for the proviso to sub-section (6C), the following proviso shall be substituted, namely :- "Provided that if it is preferred or made in the Court of a District Magistrate, or any other Executive Magistrate, such Magistrate shall refer it to the Chief Judicial Magistrate who shall make it over for disposal to any Judicial Magistrate of the first class subordinate to him, and such Judicial Magistrate shall have all the powers and jurisdiction in respect of such claim or objection as if the order of attachment had been issued by such Judicial Magistrate and the claim or objection had been originally preferred or made before him".

**25. In section 95, after the words "District Magistrate", wherever occurring, the words "Chief Judicial Magistrate" shall be inserted.**

**26. In sub-section (2) of section 96, after the words "District Magistrate", the words "or Chief Judicial Magistrate" shall be inserted.**

**27. In section 98, after the words "District Magistrate", wherever occurring, the words "Chief Judicial Magistrate" shall be inserted.**

**28. In sub-section (1) of section 106, for the words "Court of a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or a Magistrate", the words "Court of a Chief Judicial Magistrate or any other Judicial Magistrate" shall be substituted.**

**29. In sections 107, 108, 109 and 110, for the words "Magistrate of the first class". the words "Executive Magistrate of the first class" shall be substituted,**

**30. In section 124, -**

(i)for the words "Chief Presidency Magistrate", wherever occurring, the words "Chief Judicial Magistrate" shall be substituted ; and(ii)in sub-section (2), for the words "Chief Presidency", the words "Chief Judicial Magistrate" shall be substituted.

**31. In section 125, for the words "Chief Presidency" the words "Chief Judicial Magistrate" shall be substituted.**

**32.**

. In section 126, -(i)in sub-section (1), for the words "to a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class", the words "to the Court by which an order was made to give security" shall be substituted; and(ii)for sub-section (2), the following shall be substituted, namely :-"(2) On such application being made, the Court shall issue summons or warrant, as it may think fit, requiring the person for whom such surety is bound to appear or to be brought before it."

**33. In sections 127, 128, 129, 130, 131 and 132, for the word "Magistrate", wherever occurring, the words "Executive Magistrate" shall be substituted.**

**34. In section 133, -**

(i)in the opening paragraph of sub-section (1) and in sub-section (2), for the word "Magistrate", the words "an Executive Magistrate" shall be substituted; and(ii)in the closing paragraph of sub-section (1) for the words "Magistrate of the first or second class", the words "Executive Magistrate" shall be substituted.

**35. In section 143, for the words "any other Magistrate" the words "any other Executive Magistrate" shall be substituted.**

**36. In sub-section (1) of section 144, for the words and brackets "any other Magistrate (not being a Magistrate of the third class)", the words "any other Executive Magistrate" shall be substituted.**

**37. In sub-section (1) of section 145 and sub-section (1) of section 147, for the words "Magistrate of the first class" the words "Executive Magistrate of the first class" shall be substituted.**

**38. In sub-section (1) of section 155, the words "having power to try such case or commit the same for trial" shall be added at the end.**

**39. In sub-section (1) of section 164, for the words "Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered in this behalf by the State Government", the words "Judicial Magistrate of the first class or any Judicial Magistrate of the second class specially empowered in this behalf by the High Court" shall be substituted.**

**40. In section 167, -**

(i)for the proviso to sub-section (2), the following shall be substituted, namely :-"Provided that no Executive or Judicial Magistrate of the second class not specially empowered in this behalf by the State Government or the High Court, as the case may be, shall authorise detention in the custody of the police" ; and(ii)for sub-section (4), the following shall be substituted, namely :-(4) If such order is given by an Executive Magistrate other than the District Magistrate or Sub-divisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate and if such order is given by a Judicial Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate".

**41. In sub-section (3) of section 170, for the words "District Magistrate or Sub-divisional Magistrate", the words "Chief Judicial Magistrate" shall be substituted.**

**42. In sub-section (5) of section 174, for the words "Magistrate of the first class and any Magistrate", the words "Executive Magistrate of the first class and any other Executive Magistrate" shall be substituted.**

**43. In sub-section (1) of section 186, for the words "a Presidency Magistrate, a District Magistrate, a Sub-divisional Magistrate or, if he is specially empowered in this behalf by the State Government a Magistrate of the first class", the words "a District Magistrate, a Chief Judicial Magistrate, a Sub-divisional Magistrate, or, if he is specially empowered in this behalf by the State Government or the High Court, as the case may be, an Executive or a Judicial Magistrate of the first class" shall be substituted.**

**44. In sub-section (1) of section 187, for the words "a Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate", the words "a District Magistrate or Chief Judicial Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate, or, as the case may be, to the Chief Judicial Magistrate" shall be substituted.**

**45. In section 190, -**

(i) in sub-section (1), for the words "any Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, and any other Magistrate", the words "any Chief Judicial Magistrate and any other Judicial Magistrate" shall be substituted ; (ii) in sub-section (2), for the words "State Government, or the District Magistrate subject to the general or special orders of the State Government, may empower any Magistrate", the words "High Court, or the Chief Judicial Magistrate subject to the general or special orders of the High Court, may empower any other Judicial Magistrate" shall be substituted ; and (iii) in sub-section (3), for the words "State Government may empower any Magistrate", the words "High Court may empower any Judicial Magistrate" shall be substituted.

**46. In section 192, -**

(i) in sub-section (1), for the words "Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate", the words "Any Chief Judicial Magistrate" shall be substituted; and (ii) in sub-section (2), for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted.

**47. In sub-section (2) of section 193, for the words "the State Government", the words "the High Court" shall be substituted.**

**48. In sub-section (1) of section 206, for the words and brackets "Any Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class, or any Magistrate (not being a Magistrate of the third class) empowered in this behalf by the State Government", the words "Any Chief Judicial Magistrate or a Judicial Magistrate of the first class or any Judicial Magistrate of the second class empowered in this behalf by the High Court" shall be substituted.**

**49. In section 249, for the words "a Presidency Magistrate, a Magistrate of the first class, or, with the previous sanction of the District Magistrate, any other Magistrate", the words "a Judicial Magistrate of the first class, or, with the previous sanction of the Chief Judicial Magistrate, any Judicial Magistrate of**

**the second class" shall be substituted.**

**50. In the opening paragraph of sub-section (1) of section 260, for clauses (a), (b) and (c), the following clauses shall be substituted, namely :-**

"(a) the Chief Judicial Magistrate, (b) any Judicial Magistrate of the first class specially empowered in this behalf by the High Court, and (c) any Bench of Judicial Magistrates invested with the powers of a Judicial Magistrate of the first class and especially empowered in this behalf by the High Court".

**51. In section 261, for the words "State Government may confer on any Bench of Magistrates invested with the powers of a Magistrate of the second or third class", the words "High Court may confer on any Bench of Judicial Magistrate invested with the powers of a Judicial Magistrate of the second class" shall be substituted.**

**52. In section 263, for the words "the State Government", the words "the High Court" shall be substituted.**

**53. In sub-section (2) of section 265, for the words "The State Government may authorise any Bench of Magistrates", the words "The High Court may authorise any Bench of Judicial Magistrates" shall be substituted.**

**54. In sub-sections (1) and (2) of section 269, after the words "State Government", the words, "in consultation with the High Court" shall be inserted.**

**55. In section 337, -**

(i) in sub-section (1), for the words "a Presidency Magistrate, a Sub-divisional Magistrate or any Magistrate of the first class", the words "a Chief Judicial Magistrate, a Sub-divisional Magistrate or any Judicial Magistrate of the first class" shall be substituted; and (ii) in the proviso to sub-section (1), for the words "District Magistrate", occurring twice, the words "Chief Judicial Magistrate" shall be substituted.

**56. In sub-section (1) of section 346, after the words "District Magistrate", the words "or the Chief Judicial Magistrate, as the case may be", shall be inserted.**

**57. In section 349, -**

(i) in sub-section (1), - (a) for the words "a Magistrate of the second or third class", the words "a Judicial Magistrate of the second class" shall be substituted; and (b) for the words "District Magistrate or Sub-Divisional Magistrate", the words "Chief Judicial Magistrate" shall be substituted; and (ii) in sub-section (1-A), for the words "District Magistrate or Sub-divisional Magistrate" the words "Chief Judicial Magistrate" shall be substituted.

**58. In section 380, for the words "Magistrate of the first class or a Sub-divisional Magistrate", the words "Judicial Magistrate of the first class" shall be substituted.**

**59. For section 406A, the following shall be substituted, namely :-**

"406-A. Appeal from order refusing to accept or rejecting a surety. - Any person aggrieved by an order refusing to accept or rejecting a surety under section 122 may appeal against such order to the Court of Session."

**60. In section 408, for the words "a District Magistrate or any other Magistrate, or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by any Magistrate", the words "or a Judicial Magistrate or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Judicial Magistrate" shall be substituted.**

**61. In section 409, -**

(i) in the proviso to sub-section (1), the words "or third" shall be omitted ; and (ii) in sub-section (2), for the words "State Government", the words "High Court" shall be substituted.

**62. In section 413, for the words "or District Magistrate or other Magistrate", the words "or Chief Judicial Magistrate or other Judicial Magistrate" shall be substituted.**

**63. In sub-section (1) of section 428, for the word "Magistrate", occurring twice, the words "Judicial Magistrate" shall be substituted.**

**64. In section 435, -**

(i) in sub-section (1), for the words "or District Magistrate, or any Sub-divisional Magistrate empowered by the State Government in this behalf", the words "or Chief Judicial Magistrate" shall be substituted; and (ii) for sub-sections (2) and (4), the following sub-sections shall be substituted, namely :- "(2) The District Magistrate or any Sub-divisional Magistrate empowered by the State Government in this behalf, may call for and examine the record of any proceeding before any subordinate Executive Magistrate for the purpose of satisfying himself as to the correctness, legality or propriety of any order recorded or passed and as to the regularity of any proceedings of such subordinate Magistrate and may, when calling for such record, direct that the execution of any order be suspended and if the person is in confinement that he be released on bail on his own bond pending the examination of the record. (3) If any Sub-divisional Magistrate acting under sub-section (2) considers that any such proceeding or order is illegal or improper he shall forward the record with such remarks thereon as he thinks fit to the District Magistrate. (4) The High Court may call for and examine the record of any proceeding under sections 118, 122, 143, 144 or 145, notwithstanding the fact that such proceeding was before an Executive Magistrate. (5) If an application under sub-section (1) has been made either to the Sessions Judge or the Chief Judicial Magistrate no further application shall be entertained by the other of them."

**65. For section 436, the following shall be substituted, namely :-**

"436. Power to order inquiry - (1) On examining any record under section 435 or otherwise, the High Court or the Sessions Judge may direct the Chief Judicial Magistrate by himself or by any of the Magistrates subordinate to him to make, and the Chief Judicial Magistrate may himself make, or direct any subordinate Magistrate to make, further inquiry into any complaint which has been dismissed under section 203 or sub-section (3) of section 204, or into the case of any person accused of an offence who has been discharged : Provided that no Court shall make any direction under this sub-section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of showing cause why such direction should not be made. (2) On examining any record under section 435 or otherwise, the District Magistrate may direct any Sub-divisional Magistrate subordinate to him to make, and the Sub-divisional Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any proceeding in which an order of release or discharge has been made under section 119 : Provided that a District Magistrate shall make any direction under this section for further inquiry into the case of any person unless such person has had an opportunity of showing cause why such direction should not be made."

**66. In section 437, for the words "or District Magistrate", occurring thrice, the words "or Chief Judicial Magistrate" shall be substituted.**



**67. In section 438, -**

(i)for the words "or District Magistrate", the words "or Chief Judicial Magistrate" shall be substituted; and(ii)after sub-section (2), the following sub-section shall be added, namely :-(3) On examining under section 435 or otherwise the record of any proceeding, -(1)If such proceeding is in respect of an order made under section 118, section 122, section 143, section 144 or section 145 and the District Magistrate thinks that the order made in such proceeding should be reversed or altered, he shall report for the order of the High Court the result of such examination;(2)if such proceeding is in respect of an order made under any other section, then in the case of such proceedings the District Magistrate may, subject to the provisions of sub-section (2) of section 436, exercise any of the powers conferred on a Court of Appeal by sections 423, 426, 427 and 428,"

**68. In section 479, for the words "Presidency Magistrate, District Magistrate or other Magistrate", the words "Chief Judicial Magistrate or any other Judicial Magistrate" shall be substituted.**

**69. In sub-section (1) of section 488, for the words "District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or a Magistrate" the words "Chief Judicial Magistrate or any other Judicial Magistrate" shall be substituted.**

**70. For section 515, the following shall be substituted, namely :-**

**515. Appeal from, and revision of orders under section 514. - All orders passed under section 514 by any Magistrate shall be appealable to the Sessions Judge, or if not so appealed, may be revised by him".**

**71. In section 524, -**

(i)in sub-section (1), for the words "Magistrate of the first class", the words "Executive Magistrate of the first class" shall be substituted, and(ii)in sub-section (2), for the words "to the Court to which appeals against sentences of the Court passing such order would lie" the words "to the Sessions Judge" shall be substituted.

**72. In section 528, -**

(i)in sub-section (2), -(a)for the words "Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate", the words "The Chief Judicial Magistrate" shall be substituted ; and(b)for the marginal heading, the following shall be substituted, namely :-"Chief Judicial Magistrate may withdraw or refer cases", and(ii)after sub-section (3), the following sub-section shall be inserted, namely :-(3A) Where the District Magistrate authorised under sub-section (3)

withdraws any case from any Magistrate subordinate to him, he may inquire into or try such case himself or refer it for inquiry or trial to any other Magistrate subordinate to him and competent to inquire into or try the same."

**73. In section 552, after the words "District Magistrate" the words "or Chief Judicial Magistrate" shall be inserted.**

**74. In sub-section (2) of section 559, for the words "the Chief Presidency Magistrate in a Presidency town, and the District Magistrate outside such towns" the words "the Chief Judicial Magistrate in the case of Judicial Magistrates and the District Magistrate in the case of Executive Magistrates" shall be substituted.**

**75. In section 561, for the words "a Chief Presidency Magistrate or a District Magistrate", wherever occurring, the words "a Chief Judicial Magistrate" shall be substituted.**

**76. In the proviso to sub-section (1) of section 562, -**

(i)for the words "Magistrate of the third class, or a Magistrate of the second class not specially empowered by the State Government", the words "Judicial Magistrate of the second class not specially empowered by the High Court" shall be substituted; and(ii)for the words "Magistrate of the first class a or Sub-divisional Magistrate," the words "Judicial Magistrate of the first class" shall be substituted.

**77. In section 565, -**

(i)in sub-section (1), for the words "Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate" the words "Chief Judicial Magistrate or any other Judicial Magistrate" shall be substituted;(ii)in sub-section (3), after the words "State Government", the words "in consultation with the High Court" shall be inserted; and(iii)in sub-section (5), for the word "Magistrate" the words "Judicial Magistrate" shall be substituted.

**78. In Schedule II, in column 8, -**

(i)for the word "Magistrate", wherever occurring except in the expression "Presidency Magistrate" the words "Judicial Magistrate", and for the words "Any Magistrate" wherever occurring the words "Any Judicial Magistrate" shall be substituted ;(ii)for the entry relating to section 124-A, the following entry shall be substituted, namely :-"Court of Session, Chief Judicial Magistrate or any other Judicial Magistrate of the first class specially empowered by the High Court in that behalf; and(iii)in the entry relating to section 376, for the words "Chief Presidency Magistrate or District Magistrate" the words "or Chief Judicial Magistrate" shall be substituted.

**79. For Schedules III and IV, the following schedules shall be substituted, namely:-**

**III**

(See section 36) Ordinary Powers of State Magistrates I. Ordinary Powers of a Judicial Magistrate of the second class (1) Power to arrest or direct the arrest of, and to commit to custody, a person committing an offence in his presence, section 64. (2) Power to arrest, or direct the arrest in his presence of, an offender, section 65. (3) Power to endorse a warrant or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 86. (4) Power to issue proclamations in cases judicially before him, section 87. (5) Power to attach and sell property and to dispose of claims or objections to attached property, section 88. (6) Power to restore attached property, section 89. (7) Power to require search to be made for letter and telegrams, section 95. (8) Power to issue search warrant, section 96. (9) Power to endorse a search warrant and order delivery of thing found, section 99. (10) Power to order the police to investigate an offence in cases in which the Magistrate has jurisdiction to try or commit for trial, section 155. (11) Power to authorise detention, not being detention in the custody of the police, of a person during a police investigation, section 167. (12) Power to postpone issue of process and to inquire into a case or direct investigation, section 202. (13) Power to detain an offender found in Court, section 351. (14) Power to take evidence on commission, section 503. (15) Power to recover forfeited bond for appearance before Magistrate's Court, section 514 and to require fresh security, section 514-A. (16) Power to make order as to custody and disposal of property pending inquiry or trial, section 516-A. (17) Power to make order as to disposal of property, section 517. (18) Power to sell property of a suspected character, section 525. (19) Power to require affidavit in support of application, section 539-A. (20) Power to make local inspection, section 539-B. II. Ordinary Powers of a Judicial Magistrate of the first class (1) The ordinary powers of a Judicial Magistrate of the second class. (2) Power to direct warrant to land-holders, section 78. (3) Power to issue search warrant otherwise than in due course of an inquiry, section 98. (4) Power to issue search warrant for discovery of persons wrongfully confined, section 100. (5) Power to require execution of a bond, section 106. (6) Power to discharge sureties, sections 126 and 126A. (7) Power to record statements and confessions during a police-investigation, section 164. (8) Power to authorise detention of a person in the custody of the police during a police investigation, section 167. (9) Power to commit for trial, section 206. (10) Power to stop proceedings when no complainant, section 249. (11) Power to tender pardon to accomplice during inquiry into case by himself, section 337. (12) Power to make orders of maintenance, sections 488 and 489. (13) Power to recover penalty on forfeited bond, section 514. (14) Power to require fresh security, section 514A. (15) Power to recall case made over by him to another Magistrate, section 528(4). (16) Power to make order as to first offenders, section 562. (17) Power to order released convicts to notify residence, section 565. III. Ordinary Powers of a Chief Judicial Magistrate (1) The ordinary powers of a Judicial Magistrate of the first class. (2) Power to try juvenile offenders, section 29B. (3) Power to require delivery of letters, telegrams, etc., section 95. (4) Power to issue search warrants for documents in custody of postal or telegraph authorities, section 96. (5) Power to release persons imprisoned for failing to give security under section 106, section 124. (6) Power to cancel any bond for keeping the peace under section 106, section 125. (7) Power to order police investigation

into a cognizable case, section 156.(8)Power to issue process for a person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.(9)Power to entertain complaints, section 190.(10)Power to receive police reports, section 190.(11)Power to entertain cases without complaint, section 190.(12)Power to transfer cases to a Subordinate Magistrate, section 192.(13)Power to order preliminary investigation by a police officer not below the rank of an Inspector in certain cases, section 196B.(14)Power to try summarily, section 260.(15)Power to tender pardon to accomplice at any stage of a case, section 337.(16)Power to pass sentence on proceedings recorded by a Subordinate Magistrate, section 349.(17)Power to call for records, section 435.(18)Power to order inquiry, section 436.(19)Power to order commitment, section 437.(20)Power to report a case to High Court, section 438.(21)Power to withdraw cases and to try or refer them for trial, section 528.(22)Power to compel restoration of abducted female, section 552.IV. Ordinary Powers of an Executive Magistrate of the second class(1)Power to arrest or direct the arrest of, and to commit to custody, a person committing an offence in his presence, section 64.(2)Power to arrest, or direct the arrest in his presence of, an offender, section 65.(3)Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 86.(4)Power to issue proclamations, section 87.(5)Power to attach and sell property, section 88.(6)Power to require search to be made for letters and telegrams, section 95.(7)Power to issue search warrant, section 96.(8)Power to endorse a search warrant and order delivery of thing found, section 99.(9)Power to command unlawful assembly to disperse, section 127.(10)Power to use civil force to disperse unlawful assembly, section 128.(11)Power to require military force to be used to disperse unlawful assembly, section 130.(12)Power to authorise detention not being detention in the custody of the police of a person during a police investigation, section 167.(13)Power to take evidence on Commission, section 503.(14)Power to recover forfeited bond for appearance before Magistrate's Court, section 514 and to require fresh security, section 514A.(15)Power to make order as to disposal of property, section 517.(16)Power to sell property of a suspected character, section 525.V. Ordinary Powers of an Executive Magistrate of the first class(1)The ordinary powers of an Executive Magistrate of the second class.(2)Power to issue search warrant otherwise than in course of an inquiry, section 98.(3)Power to issue search warrant for discovery of persons wrongfully confined, section 100.(4)Power to require security to keep the peace, section 107.(5)Power to require security for good behaviour, section 109.(6)Power to discharge sureties, sections 126 and 126A.(7)Power to make orders as to local nuisances, section 133.(8)Power to make orders, etc., in possession cases, sections 145, 146 and 147.(9)Power to authorise detention of a person in the custody of the police during a police investigation, section 167.(10)Power to hold inquests, section 174.(11)Power to recover penalty on forfeited bond, section 514.(12)Power to require fresh security, section 514A.VI. Ordinary powers of a Sub-divisional Magistrate(1)The ordinary powers of an Executive Magistrate of the first class.(2)Power to direct warrants to land-holders, section 78.(3)Power to require security for good behaviour, section 110.(4)Power to make orders prohibiting repetitions of nuisances, section 143.(5)Power to make orders under section 144.(6)Power to depute Subordinate Executive Magistrate to make local inquiry, section 148.(7)Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.(8)Power to sell property alleged or suspected to have been stolen, etc., section 524.VII. Ordinary powers of a District Magistrate(1)The ordinary powers of a Sub-divisional Magistrate.(2)Power to require delivery of letters, telegrams, etc., section 95.(3)Power to issue search warrants for documents in custody of postal or telegraph authorities, section 96.(4)Power to require security for good

behaviour, section 108.(5)Power to discharge persons bound to keep the peace or to be of good behaviour, section 124.(6)Power to cancel bond for keeping the peace, section 125.(7)Power to order preliminary investigation by police officer not below the rank of Inspector in certain cases, section 196B.(8)Power to tender pardon to accomplice at any stage of a case, section 337.(9)Power to call for and examine records, section 435(2).(10)Power to direct Executive Magistrate to make further inquiry into proceedings, etc., section 436(2).(11)Power to report to High Court, section 438(3).(12)Power to appoint person to be Public Prosecutor in particular case, section 492(2).(13)Power to compel restoration of abducted female, section 552.

## **IV**

(See section 37)Additional Powers with which State Magistrates may be invested

### **Part I – (A) By High Court -**

Powers with which a Judicial Magistrate of the first class may be invested.(1)Power to try juvenile offenders, section 29B.(2)Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.(3)Power to take cognizance of offences upon complaint, section 190.(4)Power to take cognizance of offences upon police reports, section 190.(5)Power to take cognizance of offences without complaint, section 190.(6)Power to try summarily, section 260.(7)Power to try cases under section 124A of the Indian Penal Code.Powers with which a Judicial Magistrate of the second class may be invested.(1)Power to try juvenile offenders, section 29B.(2)Power to record statements and confessions during a police investigation, section 164.(3)Power to authorise detention of a person in the custody of the police during a police investigation, section 167.(4)Power to take cognizance of offences upon complaint, section 190.(5)Power to take cognizance of offences upon police reports, section 190.(6)Power to take cognizance of offences without complaint, section 190.(7)Power to commit for trial, section 206.(8)Power to make orders as to first offenders, section 562.(B)By the Chief Judicial Magistrate -Powers with which any Judicial Magistrate of the first class may be invested.(1)Power to take cognizance of offences upon complaint, section 190.(2)Power to take cognizance of offences upon police reports, section 190.(3)Power to transfer cases, section 192.Powers with which any Judicial Magistrate of the second class may be invested.(1)Power to take cognizance of offences upon complaint, section 190.(2)Power to take cognizance of offences upon police reports, section 190.(3)Power to stop proceedings, instituted otherwise than upon complaint, section 249.

### **Part II – (A) By State Government -**

Powers with which an Executive Magistrate of the first class may be invested.(1)Power to make orders prohibiting repetitions of nuisances, section 143.(2)Power to make orders under section 144.(3)Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.(4)Power to sell property alleged or suspected to have been stolen, etc. section 524.Powers with which an Executive Magistrate of the second class may be invested.(1)Power to make orders prohibiting repetitions of nuisances, section 143.(2)Power to make orders under section 144.(3)Power to authorise detention of a person in the custody of the

police during a police investigation, section 167.(4)Power to hold inquests, section 174.Powers with which a District Magistrate may be invested.Power to withdraw cases and to try or refer them for trial, sub-sections (3) and (3A) of section 528.Power with which a Sub-Divisional Magistrate may be invested.Power to call for records of inferior Court and to forward them to District Magistrate, sub-sections (2) and (3) of section 435.(B)By the District Magistrate -Powers with which any Executive Magistrate of the first class may be invested.(1)Power to make orders prohibiting repetitions of nuisances, section 143.(2)Power to make orders under section 144.Powers with which any Executive Magistrate of the second class may be invested.(1)Power to make orders prohibiting repetitions of nuisances, section 143.(2)Power to make orders under section 144.(3)Power to hold inquests, section 174."

## **Part II – Other Central Acts**

The Societies Registration Act, 1860.In section 21, for the words "a Magistrate", the words "a Judicial Magistrate" shall be substituted.The Police Act, 1861.

**1. In section 29, the words " before a Magistrate" shall be omitted.**

**2. In section 32, the words "before a Magistrate" shall be omitted.**

**3. In the opening paragraph of section 34, the words "before a Magistrate" shall be omitted.**

The Public Gambling Act, 1867.In section 7, for the words "before the same or any other Magistrate", the words "before any Judicial Magistrate" shall be substituted.The Press and Registration of Books Act, 1867.In sections 12, 13, 14, 15 and 15A, the words "before a Magistrate" shall be omitted.The Cattle Trespass Act, 1871.

**1. In section 20, for the words "a Magistrate of the District or any Magistrate authorised to receive and try charges without reference by the Magistrate of District", the words "the Chief Judicial Magistrate or any other Judicial Magistrate authorised to receive and try charges without reference by the Chief Judicial Magistrate" shall be substituted.**

**2. In sections 24, 26 and 27, the words "before a Magistrate" shall be omitted.**

The Metal Tokens Act, 1889.In section 5, in sub-section (2), the words "beyond the limits of a Presidency Town", and the words "except a District Magistrate or Sub-divisional Magistrate", shall be omitted.The Prisons Act, 1894.In section 52, -(a)for the words "District Magistrate or of any Magistrate of the first class or Presidency Magistrate", the words "Chief Judicial Magistrate or any other Judicial Magistrate of the first class" shall be substituted; and(b)for the first proviso, the following shall be substituted, namely :-"Provided that any such case may be transferred for inquiry

and a trial by the Chief Judicial Magistrate to any other Judicial Magistrate of the first class."The Reformatory Schools Act, 1897.

**1. In sub-section (2) of section 8, for the words, brackets and letter "a District Magistrate and (b) any Magistrate specially empowered by the State Government", the words, brackets and letter "a Chief Judicial Magistrate and (b) any other Judicial Magistrate specially empowered by the High Court" shall be substituted.**

**2. In sub-section (1) of section 9, for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted.**

**3. In section 10, for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted.**

**4. In sub-section (2) of section 11, for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted.**

**5. In section 31, in sub-sections (4) and (5), for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted.**

The Prevention of Seditious Meetings Act, 1911.

**1. In sub-section (2) of section 4, for the words "Magistrate of the first class", the words "Executive Magistrate of the first class" shall be substituted.**

**2. In section 8, for the words "Presidency Magistrate or of a Magistrate of the first class or Sub-divisional Magistrate", the words "Judicial Magistrate of the first class" shall be substituted.**

The Indian Medical Degrees Act, 1916. In section 8, for the words "a Magistrate", the words "a Judicial Magistrate" shall be substituted. The Inland Steam-vessels Act, 1917.

**1. In clause (b) of sub-section (1) of section 33, for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted.**

**2. In sub-section (1) of section 35, for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted.**

**3. In clause (b) of section 38, for the words "District Magistrate" the words "Chief Judicial Magistrate" shall be substituted.**

[Identification of Prisoners Act, 33 of 1920. In Section 5, - (a) for the words "a Magistrate" the words "an Executive Magistrate" shall be substituted; and (b) in the first proviso, for the words, "a Magistrate of the first class" the words "an Executive Magistrate of the first class" shall be substituted.] The Police (Incitement to Disaffection) Act, 1922. In sub-section (1) of section 6, for the words "Magistrate of the First Class", the words "Judicial Magistrate of the First Class" shall be substituted. The Indian Official Secrets Act, 1923. In sub-section (1) of section 13 - (a) for the words "a Magistrate", the words "Judicial Magistrate" shall be substituted. (b) for the words "which is inferior to that of a District or Presidency Magistrate", the words "or that of the Chief Judicial Magistrate" shall be substituted. The Indian Forests Act, 1927. In section 67, for the words "The District Magistrate or any Magistrate of the first class specially empowered in this behalf by the State Government", the words "The Chief Judicial Magistrate or any other Judicial Magistrate of the first class specially empowered in this behalf by the High Court" shall be substituted. The Child Marriage Restraint Act, 1929. In section 8, for the words "a Magistrate", the words "a Judicial Magistrate" shall be substituted. The Criminal Law Amendment Act, 1932. In clause (i) of section 9, for the words "Magistrate of the first class", the words "Judicial Magistrate of the first class" shall be substituted. The Drugs and Cosmetics Act, 1940. In sub-section (2) of section 32, for the words "a Magistrate", the words "a Judicial Magistrate" shall be substituted. The Prisoners (Attendance in Courts) Act, 1955. In sub-section (3) of section 3, for the words "Magistrate of the first class", the words "Judicial Magistrate of the first class" and for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted. The Prize Competitions Act, 1955. In section 18, for the words "a Magistrate", the words "a Judicial Magistrate" shall be substituted. The Suppression of Immoral Traffic in Women and Girls Act, 1956. In section 22, for the words "a Magistrate as defined in clause (c) of section 2", the words "a Chief Judicial Magistrate or any other Judicial Magistrate of the first class specially empowered by the High Court" shall be substituted.

## **Part III – Punjab Acts**

The Punjab Minor Canals Act, 1905. In section 71, for the words "Magistrate of such class as the State Government", the words "Judicial Magistrate of such class as the High Court" shall be substituted. The Punjab Municipal Act, 1911.

**1. In sub-section (1) of section 165 and sub-section (1) of section 166, for the words "Magistrate", the words "Judicial Magistrate" shall be substituted.**

**2. In section 192-A, the words "by a Magistrate" shall be omitted.**

The Colonization of Government Lands (Punjab) Act, 1912. In section 33, the words "by any Magistrate" shall be omitted. The Punjab Excise Act, 1914.



**1. In section 3, clause (15) shall be omitted.**

**2. In clause (2) of the proviso to section 50, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted.**

**3. In section 54 -**

(a)in sub-section (2), for the words "a Magistrate", the words "an Executive Magistrate" shall be substituted; and(b)in sub-section (3), for the words "any Magistrate", the words "any Executive Magistrate" shall be substituted.

**4. In section 75, for the word "Magistrate", occurring twice, the words "Judicial Magistrate" shall be substituted.**

The Punjab Medical Registration Act, 1916.In section 23, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted.The Restriction of Habitual Offenders (Punjab) Act, 1918.

**1. For section 13, the following shall be substituted, namely :-**

"13. Appeal. - Any person against whom an order of restriction has been passed under this Act, may prefer an appeal, -(a)to the District Magistrate, if such order has been made by an Executive Magistrate subordinate to him;(b)to the Chief Judicial Magistrate, if such order has been made by a Judicial Magistrate subordinate to him;(c)to the court of Session, if such order has been made by the District Magistrate or the Chief Judicial Magistrate;(d)to the High Court, in any other case."

**2. In sub-section (1) of section 17, for the words "a Magistrate", the words "a Judicial Magistrate" shall be substituted.**

The Punjab Courts Act, 1918.After sub-section (1) of section 22, the following sub-section shall be added, namely :-"(2) The High Court may confer on any Judicial Magistrate the powers of such class of Subordinate Judges as it may deem fit to be exercised by the Judicial Magistrate within such local area as the High Court may define."The Punjab Juvenile Smoking Act, 1918.

**1. In section 3, the words "by a Magistrate" shall be omitted.**

**2. For section 5, the following shall be substituted, namely :-**

"5. Summary Jurisdiction. - The High Court may confer on any Bench of Judicial Magistrates, invested with the powers of a Judicial Magistrate of the second class, powers to try summarily any offence under this Act."The Punjab Village and Small Towns Patrol Act, 1918.In section 8, for the word "Magistrate", the words "Executive Magistrate" shall be substituted.The Punjab Town Improvement Act, 1922.

**1. In section 80, the words "by a Magistrate" shall be omitted.**

**2. In sub-section (1) of section 84, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted.**

The Punjab Motor Vehicles Taxation Act, 1924. In sub-section (2) of section 16, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. The Good Conduct Prisoners' Probational Release Act, 1926. In sub-section (1) of section 7, the words "by a Magistrate" shall be omitted. The Punjab Borstal Act, 1926.

**1. In section 5, -**

(a) in sub-section (1), for the words "Magistrate of the first class", occurring twice, the words "Judicial Magistrate of the first class" shall be substituted; (b) in sub-section (2), for the words "any Magistrate", the words "any Judicial Magistrate" and for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted; and (c) in sub-section (3), for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted. The Punjab Pure Food Act, 1929. In sub-section (2) of section 8, the words "by a Magistrate" shall be omitted. The Punjab Nurses Registration Act, 1932. In section 17, section 23 and section 24, for the words "by a Magistrate of the first class", wherever occurring, the words "by a Judicial Magistrate of the first class" shall be substituted. The Punjab Suppression of Indecent Advertisements Act, 1941. In section 5, for the words "Magistrate of the first class", the words "Executive Magistrate of the first class" shall be substituted. The Music in Muslim Shrines Act, 1942. In section 5, for the words "Magistrate", the words "Judicial Magistrate" shall be substituted. The East Punjab Refugees (Registration of Claims) Act, 1948. In section 8, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. The East Punjab Refugees (Registration of Land Claims) Act, 1948. In sub-section (1) of section 9, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. The East Punjab (Exchange of Prisoners) Act, 1948. In sub-section (1) of section 8, for the words "Magistrate", the word "Judicial Magistrate" shall be substituted. The Punjab Livestock and Birds Diseases Act, 1948. In section 36, for the words "magistrate of the first class, or a magistrate of the second class specially empowered in this behalf by the State Government", the words "Judicial Magistrate of the first class, or a Judicial Magistrate of the second class specially empowered in this behalf by the High Court" shall be substituted. The East Punjab Agricultural Pests, Diseases and Noxious Weeds Act, 1949. In sub-section (3) of section 4 and section 9, the words "by a Magistrate", wherever occurring, shall be omitted. The East Punjab Children Act, 1949.

**1. In section 6, -**

(a) in clause (c), for the words "a District Magistrate", the words "a Chief Judicial Magistrate" shall be substituted; (b) clause (d) shall be omitted; (c) in clause (f), for the word "Magistrate" the words "Judicial Magistrate" shall be substituted; and (d) in clause (g), the words "in consultation with the High Court" shall be added at the end.

**2. In section 7, for the words "District Magistrate or Sub-Divisional Magistrate" the words "Chief Judicial Magistrate" and for the word "Magistrate", wherever occurring, the words "Judicial Magistrate", wherever occurring, the words "Judicial Magistrate" shall be substituted.**

**3. In the proviso to sub-section (1) of section 8, for the word "Magistrate", wherever occurring, the words "Judicial Magistrate" shall be substituted.**

**4. In section 22, for the word "Magistrate", wherever occurring, the words "Judicial Magistrate" shall be substituted.**

**5. In sub-section (3) of section 59, for the words "Magistrate of the first class", and the words "such Magistrate", the words "Judicial Magistrate of the first class", and the words "such Judicial Magistrate" respectively, shall be substituted.**

**6. In sub-section (1) of section 60, -**

(a)after the words "State Government", the words "in consultation with High Court" shall be inserted ; and(b)for the word "Magistrates", the words "Judicial Magistrates" shall be substituted.

**7. In sub-section (1) of section 72, -**

(a)in clause (a), for the words "Magistrate of the second or third class", the words "Judicial Magistrate of the second class" shall be substituted; and for the words "District Magistrate" the words "Chief Judicial Magistrate" shall be substituted; and(b)in clause (b), for the word "Magistrate" the words "Judicial Magistrate" shall be substituted.The Punjab Development of Damaged Areas Act, 1951.

**1. In section 7, for the word "Magistrate", wherever occurring, the words "Judicial Magistrate" shall be substituted.**

**2. In section 32, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted.**

The Punjab Habitual Offenders (Control and Reform) Act, 1952.

**1. In the proviso to section 5, for the words "a Magistrate", the words "an Executive Magistrate" shall be substituted.**

**2. In the proviso to sub-section (2) of section 7, for the words "a Second Class Magistrate", the words "an Executive Magistrate of the second class" shall be substituted.**

**3. In sub-section (1) of section 19, for the word "Magistrate", the words "Executive Magistrate" shall be substituted.**

The Punjab Passengers and Goods Taxation Act, 1952. In sub-section (2) of section 17, for the words "a Magistrate", the words "a Judicial Magistrate" shall be substituted. The Punjab New Capital (Periphery) Control Act, 1952. In section 13, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. The Punjab Gram Panchayat Act, 1952.

**1. In section 15, -**

(a) in sub-section (2), for the words "a Magistrate", the words "an Executive Magistrate" shall be substituted ; and (b) in sub-sections (4) and (5), for the word "Magistrate", the words "Judicial Magistrate" shall be substituted.

**2. In the proviso to section 41 and section 45, for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted.**

**3. In sub-section (3) of section 48, for the word "Magistrate", occurring twice, the words "Judicial Magistrate" shall be substituted.**

**4. In the marginal heading of section 51, and in sub-section (1) thereof, for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted.**

**5. In sub-section (2) of section 67, for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted.**

**6. In sub-section (4) of section 73, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted.**

**7. In sub-section (1) of section 74 and section 75, for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted.**

**8. In sub-section (2) of section 79, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted.**

**9. In section 95, for sub-section (3), the following shall be substituted, namely :-**

"(3) The Chief Judicial Magistrate may delegate any of his powers to a Judicial Magistrate of the first class."

**10. In clause (c) of sub-section (2) of section 103 for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted.**

The Punjab Sugarcane (Regulation of Purchase and Supply) Act, 1953. In sub-section (3) of section 18, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. The Punjab Vaccination Act, 1953. In section 14, -(a) for the words "Magistrate authorised by him", the words "Executive Magistrate authorised by him" shall be substituted; and (b) for the words "the Magistrate shall deal with the disobedience", the words "the Magistrate shall forward the case to a Judicial Magistrate for dealing with the disobedience" shall be substituted. The Punjab Cotton Ginning and Pressing Factories Act, 1953. In section 17, -(a) in sub-section (1), for the words "Magistrate of the first class", the words "Executive Magistrate of the first class" shall be substituted; and (b) in sub-section (2), for the words "Magistrate of the first class", the words "Judicial Magistrate of the first class" shall be substituted. The Punjab Entertainments Duty Act, 1955. In sub-section (2) of section 15, for the words "Magistrate of the first class", the words "Judicial Magistrate of the first class" shall be substituted. The Punjab Electricity (Duty) Act, 1958. In clause (c) of section 11, the words "before a Magistrate" shall be omitted. The Punjab Shops and Commercial Establishments Act, 1958. In sub-section (1) of section 18 and sub-section (2) of section 22, for the word "Magistrate", wherever occurring, the words "Judicial Magistrate" shall be substituted. The Nangal Township (Periphery) Control Act, 1958. In section 13, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. The Punjab Weights and Measures (Enforcement) Act, 1958. In sub-section (2) of section 38, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. The Punjab Compulsory Service Act, 1961. In sub-section (1) of section 6, the words "by a Magistrate" shall be omitted. The Punjab Fruit Nurseries Act, 1961. In sub-section (2) of section 14, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. The Punjab Slum Areas (Improvement and Clearance) Act, 1961. In section 34, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. The Punjab Co-operative Societies Act, 1961. In sub-section (1) of section 72, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. The Talwara Township (Periphery) Control Act, 1961. In section 13, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. The Punjab Gift Goods (Unlawful Possession) Act, 1963. In sub-section (2) of section 4, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. The Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963. In section 15, for the word "Magistrate", occurring twice, the words, "Judicial Magistrate", shall be substituted. The Punjab Ayurvedic and Unani Practitioners Act, 1963. In sub-section (1) of section 33, for the word "Magistrate" the words "Judicial Magistrate"

shall be substituted. The Punjab Ancient and Historical Monuments and Archaeological Sites and Remains Act, 1964. In sections 31 and 33, for the word "Magistrate", the words, "Judicial Magistrate" shall be substituted. [Added by Haryana Act No. 25 of 1972.]