

PART I
PRELIMINARY
CHAPTER I

1. Short title. 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) Extent. 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* * *.

2. [Repeal of enactments, notifications, etc., under repealed Acts. Pending cases.] Rep. by the Repealing and Amending Act, 1914 (X of 1914).

¹For Statement of Objects and Reasons, see Gazette of India, 1897, Pt. V, p. 363 ; for Report of the Select Committee, see *ibid.*, 1898, Pt. V, p.19; and for Proceedings in Council, see *ibid.*, 1897, Pt. VI, pp. 238 and 254; and *ibid.*, 1898, pp. 22, 101 and 175.

It has been declared to be in force in-

Baluchistan, by the British Baluchistan Laws Regulation, 1913 (2 of 1913), s.3 and Sch. I.

It has been extended to the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G.G.O. 3 of 1950) ; and applied in the Federated Areas of Baluchistan, see Gazette of India, 1937,

Pt. I, p. 1499.

It has also been extended to the Excluded Area of Upper Tanawal other than Phulera by the N.-W.F.P (Upper Tanawal) (Excluded Area) Laws Regulation, 1950, and declared to be in force in that area with effect from 1st June, 1951, see N.-W.F.P. Gazette, Extraordinary, dated 1st June, 1951.

It has been applied to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the N.-W.F.P., subject to certain modifications, see N.-W.F.P. (Upper Tanawal) (Excluded

Area) Laws Regulation, 1950.

Extended to the added area of the North-West Frontier Province (see First Schedule to (G.G.O. 1 of 1952), with effect from the 7th February, 1952. see N.W.F.P.

Gazette, 1952, Pt. I, p. 70. It has also been extended to the added areas mentioned in First Schedule of G.G.O. 13 of 1955, see Gazette of West Pakistan, 1957, Ext., p. 555.

As to its application in certain districts on the Sindh Frontier, see the Sindh Frontier Regulation, 1872 (5 of 1872), s. 11, and the Sindh Frontier Regulation, 1892 (3 of 1892).

It has been amended in its application to-

(i) the Punjab, by the Punjab Criminal Procedure (Election Offences) Amendment Act, 1936 (Punjab Act 1 of 1936) and the Code of Criminal Procedure (Punjab Amdt.) Act, 1940 (Punjab Act 11 of

1940), Punjab Ordinance 9 of 1971, and the Punjab Ordinance 10 of 1972. ;

The Code of Criminal Procedure, 1898 (Act V of 1898) has been amended by the Law Reforms Ordinance, 1972, (XII of 1972). The date of enforcement of the provisions of the Law Reforms Ordinance, 1972 except those relating to separation of Judiciary in the different Provinces are as follows:-

1. In the Punjab 26-12-1975

2. In N.W.F.P. (Except Tribal Areas) 26-12-1975

3. In Sind 24-12-1975

4. In Quetta Town, Cantonment Areas and Nasirabad Distt. of Baluchistan. 23-12-1975

(ii) N.-W.F.P., by the Criminal Procedure (Election Offences) (N.-W.F.P. Amdt.) Act, 1937 (N.-W.F.P. Act 10 of 1937), the Code of Criminal Procedure (N.-W.F.P Amdt.) Act, 1940 (N.-W.F.P. Act 8 of 1940) ;

(iii) The Province of West Pakistan by West Pakistan Act No. 11 of 1963, s.2 (with effect from the 12th July, 1963) West Pakistan Act No. 17 of 1964, s.2 (with effect from the 1st April, 1964) the West

Pakistan Act 8 of 1968, and West Pakistan Ordinance 33 of 1969; and

(iv) The Provisions of the Law Reforms Ordinance, 1972 (12 of 1972), relating to amendments in the Code of Criminal Procedure, 1898 (5 of 1898), enforced w.e.f. 26-12-75 in Punjab and N.-W.F.P.

(except Tribal Areas), w.e.f. 24-12-75 in Sind w.e.f. 23-12-75 in Quetta Town Cantonment Area and Nasirabad District of Baluchistan.

¹ Subs. by the Central Laws (Statue Reform) Ordinance, 1960 (21 of 1960), s. 3 and 2nd Sch., for “all the Provinces and the capital of the Federation”, which had been subs. by A.O., 1949, Arts. 3(2) and 4, for “the whole of British India”.

² The words “or shall apply to”, the original clauses (a), (b) and (c), and the proviso following as amended by the Devolution Act, 1920 (38 of 1920), s.2 and Sch. I, and A.O., 1937, omitted by A.O., 1949, Sch.

3. References 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" ¹[* * *] ²[* * *] and the expression "Joint Sessions Judge" shall mean "Additional Sessions Judge".

4. Definitions.-(1) In this Code the following words and expressions have the following meanings, unless a different intention appears from the subject or content:—

(a) "Advocate General." "Advocate General" includes also a Government Advocate or, where there is no Advocate General or Government Advocate, such officer as the ³[Provincial Government] may, from time to time, appoint in this behalf :

(b) "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 :

(c) "Charge." "charge" includes any head of charge when the charge contains more heads than one:

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(f) "Cognizable offence." "Cognizable case." "cognizable offence" means an offence for, and

"cognizable case" means a case in, which a police-officer, ⁶* * * may, in accordance with the second schedule or under any law for the time being in force, arrest without warrant :

⁷* * * * *

(h) "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 report of a police-officer :

¹Omitted by ord. 37 of 2001, s.2 (w.e.f. 14-8-2001).

²The words and quotations "the expression "Magistrate of Police" shall be deemed to mean "Presidency Magistrate," omitted *ibid.* ³Subs. by A.O., 1937, for "L.G."

⁴Clause (d) rep. by the Repealing and Amending Act, 1923 (11 of 1923), s.3 and Sch. II.

⁵Clause (e) omitted by the Law Reforms Ordinance, 1972 (12 of 1972), s.2 and Sch., Enforced in Punjab, w.e.f. 26-12-75, see, Punjab Govt. Notifin. No. Judl. 1-3 (2)/75, dated 26-12-75, Ext., P.1419. Enforced in N.-W.F.P. w.e.f. 26-12-75, see, the N.-W.F.P. Govt. Notifin. No. S.O. Judl. Misc. (HD)/75, dated 30-12-75, Ext., P.484a. Enforced in Sind, w.e.f. 23-12-75, see, Sind Govt. Notifin. No. S. Legis-4 (8)/75, dated 23-12-75, Ext. p. 1327-A. Enforced in Baluchistan, w.e.f. 23-12-75, see, Baluchistan Govt. Notifin. No. Legis-3/15/Law/75, dated 23-12-75, Ext., Issue No. 70. ⁶The words "within or without the presidency-towns," omitted by A.O., 1949, Sch. ⁷Clause (g) defining "Commissioner of Police" omitted, *ibid.*

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- (j) "High Court." ²["High Court" means the highest Court of criminal appeal or revision for a province, ³[and the Islamabad Capital Territory]:
- (k) "Inquiry." "Inquiry" includes every inquiry other than a trial conducted under this Code by a Magistrate or Court.
- (l) "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 authorised by a Magistrate in this behalf :
- (m) "Judicial Proceeding." "judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath :
- ⁴[ma) "Magistrate" means a Judicial Magistrate and includes a Special Judicial Magistrate appointed under sections 12 and 14;]
- (n) "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, ⁵* * *, may not arrest with out warrant :
- (o) "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 ([I of 1871](#))
- (p) "Officer incharge of a police-station." "Officer incharge of a police-station" includes, when the officer incharge 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 ⁶[Provincial Government] so directs, any other police-officer so present
- (q) "Place." "place" includes also a house, building, tent and vessel :

- (r) "Pleader." "pleader," used with reference to any proceeding in any Court, means a pleader ⁷[or a mukhtar] authorised under any law ⁸for the time being in force to practise in such Court, and includes (1) an advocate, a vakil and an attorney of a High Court so authorised, and (2) any ⁹* * other person appointed with the permission of the court to act in such proceeding :

¹Clause (i) defining "European British subject" which was subs. by the Criminal Law Amendment Act, 1923 (12 of 1923), s.2. (1), for the original clause (i) has been omitted by the Criminal Law (Extinction of Discriminatory Privileges) Act, 1949 (2 of 1950), Sch.

²Subs. by A.O., 1964, Art. 2 and Sch. for Clause (j) which had been subs. by Act 2 of 1950, Sch., for the original clause, as amended from time to time. ³Added by P.O. 70 and 07 Art 17.

⁴Ins. by ord. 37 of 2001, s. 3 (w.e.f. 14-8-2001).

⁵The words "within or without a presidency-town" omitted by

A.O., 1949, Sch. ⁶Subs. by A.O., 1937, for "L.G.".

⁷Ins. by the Code of Criminal Procedure (Further Amendment) Act, 1923 (35 of 1923), s.2.

⁸See the Legal Practitioners Act, 1846 (1 of 1846); the Legal Practitioners Act, 1853 (20 of 1853); the Legal Practitioners Act, 1879 (18 of 1879); the Legal Practitioners Act, 1884 (09 of 1884); the

Legal Practitioners (Amendment) Act, 1908 (1 of 1908) ; and Act XXXV of 1973.

In Baluchistan, see s. 20 (1) (c) of the Sch. to the British Baluchistan Criminal Justice Regulation, 1896 (8 of 1896); in the N.-W.F.P., see s.9 of the N.-W.F.P. Law and Justice Regulation , 1901 (7 of

1901) and the rules issued under that section in Gazette of India, 1902, Pt. II, p.5.

⁹The words "Mukhtar or" rep. by the Code of Criminal Procedure (Further Amendment) Act, 1923 (35 of 1923), s.2.

- (s) "Police-station." "police-station" means any post or place declared, generally or specially, by the ³[Provincial Government] to be a police-station, and includes any local area specified by the ¹[Provincial Government] in this behalf :

- (t) "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 ⁴[the State] in any High Court in the exercise of its original criminal jurisdiction :

- (u) "Sub-division." "Sub-division" means a sub-division of a district :

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

Words to have same meaning as in Pakistan Penal Code. All words and expressions used herein and defined in the Pakistan Penal Code ([XLV of 1860](#)), and not herein before defined, shall be deemed to have the meanings respectively attributed to them by that Code.

³ Subs. by A.O., 1937, for "L.G.".

⁴ Subs. by A.O., 1961, Art. 2 and Sch., for "Her Majesty" (with effect from the 23rd March, 1956).

⁵ Clauses (v) and (w), omitted by the Law Reforms Ordinance, 1972 (12 of

1972), s.2 and Sch. ⁴Subs. by Ord. 12 of 1972, s.2 and Sch. as amended by Act 23 of 1997.

5. Trial of offences under Penal Code.-(1) All offences under the Pakistan Penal Code ([XLV of 1860](#)) 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.