

AZAD GOVERNMENT OF THE STATE OF JAMMU AND KASHMIR
LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.

Dated the 22nd October, 1985.

No. LD/Leg (A)/2150-52/85. The following Act approved by the Azad Jammu and Kashmir Legislative Assembly at its meeting held on 5th October, 1985 and assented by the President on 21st October, 1985, is hereby published for general information:-

(ACT II OF 1985)

AN

ACT

further to amend the Code of Criminal Procedure, 1898

WHEREAS it is necessary further to amend the Code of Criminal Procedure, 1898 (Act V of 1898), for the purposes herein after appearing;

It is hereby enacted as follows:-

1. Short title and Commencement.- (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1898 (Act V of 1898), for the purposes herein after appearing;

(2) It shall come into force at once and shall be deemed to have taken effect on and from the 5th day of October, 1985.

2. Amendment of Section 22, Act V of 1898.- In the Code of Criminal Procedure, 1898 (Act V of 1898), as in force in Azad Jammu and Kashmir, hereinafter referred to as in force in Azad Jammu and Kashmir, hereinafter referred to as the said Code, for Section 22, the following shall be substituted, namely:-

“22. Appointment of Justices of the Peace.- The Azad Government of the State of Jammu and Kashmir may, by

notification in the official Gazette, appoint for such period as may be specified in the notification, and subject to such rules as may be made by it any person who is a citizen of Azad Jammu and Kashmir and as to whose integrity it is satisfied to be a Justice of the Peace for a local area to be specified in the notification, and more than one Justice of the Peace may be appointed for the same local area.

22-A. Powers of Justices of the Peace.- (1) A Justice of the peace for any local area shall, for the purpose of making an arrest, have within such area all the powers of Police Officer referred to in Section 64 and an officer-in-charge of a Police-station referred to in Section 55.

(2) A Justice of the Peace making an arrest in exercise of any powers under sub-section (1) shall, forthwith take or cause to be taken the person arrested before the officer-in-charge of the nearest Police-station and furnish such officer with a report as to the circumstances of the arrest and such officer shall thereupon re-arrest the person.

(3) A Justice of the Peace for any local area shall have powers within such area, to call upon any member of the police force on duty to aid him:-

(a) in taking or preventing the escape of any person who has participated in the commission of any cognizable offence or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion of his having so participated; and

(b) in the prevention of Crime in general and, in particular, in prevention of a breach of the peace or a disturbance of the public tranquility.

(4) Where a member of the police force on duty has been called upon to render aid under sub-section (3) such call shall be deemed to have been made by a competent authority.

(5) A Justice of the peace for any local are may, in accordance with such rules as may be made by the Government:-

(a) issue a certificate as to the identity of any person residing within such area: or

(b) verify any document brought before him by any such person; or

(c) attest any such document required by or under

any law for the time being in force, to be attested by a Magistrate;

And until the contrary is proved, any certificate so issued shall be presumed to be correct and any document so verified shall be deemed to be duly verified, and any document so attested shall be deemed to have been as fully attested as if he had been a Magistrate.

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

(a) on receipt of information of the occurrence of any incident involving a breach of the peace, or of the commission of any offence within such local

area, forthwith make inquiries into the matter and report in writing the result of his inquiries to the nearest Magistrate and to officer in charge of the nearest Police-station;

(b) if the offence referred to in clause (a) is a cognizable offence, also prevent the removal of any thing from, or the interference in any way with, the place of occurrence of the offence;

(c) when so required in writing by a Police-officer making an investigation under Chapter XIV in respect of any offence committed within such local area.-

(i) render all assistance to the Police-officer in making such an investigation;

(ii) record any statement made under expectation of death by person in respect of whom a crime is believed to have been committed.

Amendment of Section 99-A, Act V of 1898.- In the said Code in Section 99-A, in sub-section (1),-

(a)

(b)

after the words and comma "of that class" the words, figures, brackets, letter and commas "or any matter of the nature referred to in sub-section (4) and (5) Section 6, of the Maintenance of Public Order Ordinance, 1984" shall be inserted; and

after the figure and letter "295-A", the words, figures and letters "or Section 298-A or Section 298-B or Section 298-C" shall be inserted.

Insertion of new Sections 382-A, 382-B and 382-C, Act V of 1898.- In the said Code, after Section 382, the following new Sections 382-A, 382-B and 382-C, shall be inserted:-

"382-A. Postponement __ of execution __ of sentences __ of

imprisonment under Section 476 or for __ a period of less than one year.- Notwithstanding anything contained in 383 or 391, where the accused.-

(a) is awarded any sentence of imprisonment under Section 476; or

(b) is sentenced in cases other than those provided for in Section 381, to imprisonment whether with or without fine or whipping, for a period of

less than one year. The sentence shall not, if the accused furnishes bail to the satisfaction of the Court for his appearance at such time and place as the Court may direct, be executed, until the expiry of the period prescribed for making an appeal against such sentence or, if an appeal is made within that time, until the sentence of imprisonment is confirmed by the Appellate Court, but the sentence shall be executed as soon as practicable after the expiry of the period prescribed for making an appeal, or, in case of an appeal, as soon as practicable after the receipt of the order of the Appellate court confirming the sentence.

382-B. Period of detention to be considered while awarding sentence of imprisonment.- Where a Court decides to pass a sentence of imprisonment on an accused for an offence, it shall take into consideration the period, if any, during which such accused was detained in custody for such offence.

382-C. Scandalous_or_false_and_frivolous_pleas_to be considered in passing sentence.- In passing a sentence on an accused for any offence, a Court may take into consideration any scandalous or false and frivolous plea taken in defence by him or on his behalf.”

Amendment of Section 488 and 489, Act V_1898.- In the said Code, in sub-section (1) of Sections 488 and 489, for the words “one hundred” the words “four hundred” shall at both places be substituted.

Amendment of Section 510, Act V_ of 1898.- In the said Code, for Section 510, the following shall be substituted, namely:-

“510. Report of Chemical Examiner, Serologist, ect.- Any document purporting to be a report, under the hand of any Chemical Examiner or Assistant Chemical Examiner to any Serologist, finger print expert or firearm expert appointed by Government, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may, without calling him as a witness, be used as evidence in any inquiry, trial or other proceeding under this Code:

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Provided that the Court may, if it considers necessary in the interest of justice, summon and examine the person by whom, such report has been made.”

7. Amendment of Schedule II, Act V of 1898.- In the said Code, in Schedule II,-

(a) after entries relating to Section 123-A, the following

new entries shall be inserted, namely:-

1 2 3 4 5 6 7 8

“123B Defiling or May Ditto Ditto Ditto Tmpriso- Magis-
unauthorised- arrest nment of trate of the
ly removing without either first Class
the National — warrant. Description
flag Pakistan for 3 years,
or the flag of or fine or
Azad Jammu with both.
and Kashmir
from
Government

building etc.

(b) for the entry relating in column 3, relating to Section 124, the following shall be substituted, namely:-

“Shall not arrest without warrant.”

(c) after the entries relating to Section 298, the following entries shall be inserted, namely:-

1 2 3 4 5 6 7 8

“298 Use of May Ditto Ditto Not Imprison- Ditto

(A) derogatory arrest Compound- ment of
remarks ete without able either
in respect of warrant. description
holy for three
personages years, or

fine, or
both.

(B) Misuse of Shall Ditto Not Not Imprison- Ditto
epithets, arrest bailable Compound- ment of
description without able either
and titles, warrant. description
etc, reserved for three
for certain years, or
holy fine, or
personages both.

or places

(C) Person of Ditto Ditto _ Ditto Ditto Ditto Ditto
Quadiani
Group, etc.,
calling

himself a
Muslim or
preaching or
propagating
his faith as
Islam.

(d) after the entries relating to Section 354, the following entries shall be inserted, namely:-

1 2 3 4 5 6 7 8

"354- Assault or Ditto Ditto Ditto Ditto Death or Court of
A use of imprison- Session.
criminal ment for life
force to and fine.
woman
and
stripping
her of her
clothes.

Amendment of Second Schedule, Act V of 1898.- In the Code of Criminal Procedure, 1898 (Act V of 1898), in the Second Schedule, for the heading 'Offences Against other Laws' and the entries thereunder the heading and entries as per schedule attached shall be substituted.

Repeal.- The Code of Criminal Procedure (Amendment) Ordinance, 1985 (Ordinance CLI] of 1985) is hereby repealed.

Sd/-
(Syed Atta Mohy-ud-Din Qadri)
Deputy Secretary.

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OFFENCES AGAINST OTHER LAWS

2 3 4 B} 6 7 8

If punishable | May Warrant Not not Ditto | Court of
with death | arrest bailable compound- session
(imprisonment | with out able
for life) or | warrant.
imprisonment
for 7 years or
upward.

If punishable | Ditto Ditto Ditto Ditto Ditto | Magistrate
with Except of Ist
imprisonment in cases Class

for 3 years, under
and upward, the
but less than 7 Arms
years. Act
1878,
which
shall be
bailable

If punishable | Shall not | Summons Bailalbe | Ditto Ditto | Magistrate
with arrest of Ist
imprisonment without Class
for 1 year, and | warrant.
upwards, but
less than 3
years

If punishable | Ditto Ditto Ditto Ditto Ditto | Any
with Magistrate
imprisonment
for less than 1
year, or with
fine only.

If punishable | May Offences against Islamic Laws Ditto | District
with death, | arrest Criminal
imprisonment | without | Warrant Not Not Court.
for life, | warrant. bailable | compoundable
amputation of
hand or foot
or both hand
and foot or
with whipping
exceeding 80
stripes with or
without any
other of the
said

punishment.

If punishable | Ditto Ditto Ditto Ditto Ditto | Tehsil
with Criminal
imprisonment Court
for 3 years
upwards but
less than
imprisonment
for life or with
whipping not
exceeding 80
stripes with or
without
imprisonment.

If punishable | Shall not | Summons | Bailable | Ditto Ditto | Tehsil
with arrest Criminal
imprisonment without Court

for 1 year and | warrant.
upwards but
less than 3
years or with
whipping not
exceeding 40
stripes with or

without

imprisonment.

If punishable | Ditto Ditto Ditto Ditto Ditto | Tehsil
with Criminal
imprisonment Court

for less than 1
years or with
whipping not
exceeding 10
stripes with or
without
imprisonment,
or with fine
only.