

Balochistan Provincial Assembly Secretariat

NOTIFICATION

Dated Quetta, the 10th December, 2010.

NO.PAB/Legis:V(16)/2010 . Having been passed the Code of Criminal Procedure 1898 (Balochistan Amendment) Bill No 16 of 2010, by the Provincial Assembly of Balochistan on 10th December,2010 and assented to by the Governor Balochistan on 10th December,2010 is hereby published as an Act of the Provincial Assembly.

THE CODE OF CRIMINAL PROCEDURE 1898 (BALOCHISTAN AMENDMENT) ACT NO XV OF 2010

(First published after having received the assent of the Governor Balochistan in the Balochistan Gazette (Extra-ordinary) dated the 10th December,1020.

AN ACT

further to amend the Code of Criminal Procedure, 1898

Preamble Whereas it is, expedient to further amend the Criminal Procedure Code

1898, (Act V of 1898), for the purposes hereinafter, appearing;

It is hereby enacted as follows:

Short title,

1. (1) This Act may be called the Code of Criminal Procedure (Balochistan Amendment) Act, 2010.

extent and

(2) It shall extend to the whole of Balochistan except Tribal Areas.

commencement

(3) It shall come into force at once.

(4)

Substitution of

2. In the Code of Criminal Procedure, 1898 (Act V of 1898), hereinafter referred to as the aforesaid Code, in section 3, for sub-section (2), the following shall be substituted, namely:

Section 3,

Act V of 1898.

“(2) Expressions in Former Acts---In every enactment passed before this Code comes into force, the expressions “Officer exercising (or having) the powers(or ‘the full powers’) of a “Magistrate”, “Subordinate Magistrate, First Class” and “Subordinate Magistrate ,Second Class” shall respectively be deemed to mean “Magistrate of the First Class” ,“Magistrate of the Second Class” and “Magistrate of

the Third Class”, the expression “Magistrate of a Sub-Division of a district” shall be deemed to mean “Sub-Divisional Magistrate”, the expression “Magistrate of the district” shall be deemed to mean “District Magistrate”, and the expression “Joint Sessions Judge” shall mean “Additional Sessions Judge”.”

Amendment
of Section 4,
Act V of 1898.

3. In the aforesaid Code, in section 4, in sub-section (1), clause (ma) shall be omitted.

Amendment
of Section 6,
Act V of 1898.

4. In the aforesaid Code, in section 6, for sub-section (2) the following shall be substituted, namely:

“(2) There shall be the following classes of Magistrates, namely;

(a) Judicial Magistrates:

- (i) Magistrates of the First Class;
- (ii) Magistrates of the Second class;
- (iii) Magistrates of the Third class; and
- (iv) Special Judicial Magistrates.

(b) Executive Magistrates:

- (i) District Magistrates;
- (ii) Additional District Magistrates;
- (iii) Sub-Divisional Magistrates;
- (iv) Special Executive Magistrates;
- (v) Magistrates of the First Class;
- (vi) Magistrates of the Second Class; and
- (vii) Magistrates of the Third Class.”

Amendment
of Section 8,
Act V of 1898.

5. In the aforesaid Code, in section 8, after sub-section (1), the following sub-section (2) shall be added, namely:
“Existing Sub-Divisions maintained.”--- (2) All existing Sub-Divisions which are now usually put under the charge of a Magistrate shall be deemed to have been made under this Code.”

Insertion of
Section 10 and 11,
Act V of 1898.

6. In the aforesaid Code, after section 9, the following section 10 and 11 shall be inserted, namely:

“10. District Magistrate.--- (1) In every district the Provincial Government shall appoint a District Magistrate.

(2) The Provincial Government may also appoint Additional District Magistrate to exercise jurisdiction in one or more districts and such Additional District Magistrate shall have all or any of the powers of a District Magistrate under the Code, or under any other law for the time being in force, as the Provincial Government may direct.

(3) For the purpose of section 192, sub-section (1) and section 407, sub-section (2) such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate.

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

Insertion of
Section 13, Act V
of 1898.

7. In the aforesaid Code, after Section 12, the following Section 13 shall be inserted, namely:

“13. Power to Put Executive Magistrate in charge of Sub-Division.--- (1) The Provincial Government may place any Executive Magistrate In Charge of a Sub-Division and relieve him of the charge as occasion requires.

(2) Such Magistrate shall be called Sub-Divisional Magistrate.

(3) The Provincial Government may delegate its power under this section to the District Magistrate.”

Amendment
of Section 14,
Act V of 1898.

8. In the aforesaid Code, for section 14, the following shall be substituted, namely:

“14. Special Judicial and Executive Magistrates.--- (1) The Provincial Government may on the recommendation

of the High Court, confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Judicial Magistrate in respect of particular cases or to particular class or particular class of cases, or in regard to cases generally in any local area.

(2) Such Magistrates shall be called Special Judicial Magistrates, and shall be appointed for such term as the Provincial Government may, in consultation with the High Court by general or special order, direct.

(3) The Provincial Government may also appoint Executive Magistrates for particular areas or for performance of particular functions and confer upon them all or any of the powers conferrable by or under this Code on an Executive Magistrate.

(4) Such Magistrates shall be called Special Executive Magistrates, and shall be appointed for such term as the Provincial Government may by general or special order, direct:

(5) The Provincial Government, may delegate, subject to such limitations as it thinks fit to any officer under its control the powers conferred by sub-section (3).”

Amendment
of Section 15,
Act V of 1898.

9. In the aforesaid Code, in section 15, in sub-section (1), after the words “Judicial Magistrate”, the following words shall be inserted, namely;

“or Executive Magistrate.”

Amendment
of Section 17,
Act V of 1898.

10. (a) In the aforesaid Code, in section 17; (i) The marginal heading shall be substituted as under, namely:

“Sub-ordination of Judicial Magistrates to Sessions Judge”

(ii) In sub-section (1), after the word “All”, the word “Judicial” shall be inserted;

(b) After sub-section (1), the following sub-sections (2) and (2A) shall be inserted, namely;

“(2) Subordination of Executive Magistrates to District Magistrate. All Executive Magistrates appointed under section 12, 13 and 14 shall be subordinate to the District Magistrate and he may, from time to time, make rules or give special orders consistent with this Code and any rules framed

by the Provincial Government under section 16, as to the distribution of business among such Magistrates.

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

(c) After sub-section 4, the following sub-section (5) shall be added, namely;

“(5) neither the District Magistrate nor the Executive Magistrate appointed or constituted under section 12, 13 and 14 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided.”

Amendment
of Section 25,
Act V of 1898.

11. In the aforesaid Code, in section 25 (i) after the words “Sessions Judges”, the words “and District Magistrates” and a coma shall be inserted; and

(ii) the words “them” shall be substituted by the words, “Sessions Judge.”

Amendment
of Section 28,
Act V of 1898.

12. In the aforesaid Code, in section 28, the full-stop appearing at the end shall be replaced by a colon and thereafter the following proviso shall be added, namely;

“Provided that the offences falling under Chapters VIII, X, XIII and XIV of Pakistan Penal Code 1860 (Act XLV of 1860), except offences specified in section 153-A and section 281 of the aforesaid Code, shall be tried by the Executive Magistrate and the expression “Magistrate” used in the said eighth column shall mean Executive Magistrate of the respective class.”

Amendment
of Section 29,
Act V of 1898.

13. In section 29, in sub-section (2), the full stop appearing at the end shall be replaced by a colon and thereafter, the following proviso shall be added, namely;

“Provided that the offences punishable with imprisonment for a term not exceeding three years, with or without any other punishment, shall be tried by the Executive Magistrates.”

Amendment
of Section 30,

14. In the aforesaid Code, in section 30, after the word “invest”, the word “District Magistrate or” shall be inserted.

Act V of 1898.

Amendment in
Section 36,
Act V of 1898.

15. In the aforesaid Code, in section 36 after the word “All” the words “Judicial and Executive Magistrates” shall be inserted.

Substitution
of Section 37,
Act V of 1898.

16. In the aforesaid Code, for section 37, the following shall be substituted, namely;

“37. Additional Powers Conferrable on Magistrates

The Provincial Government may, in addition to ordinary powers, invest any Magistrate with any powers specified in the Fourth Schedule.

Provided in the case of a Judicial Magistrate, such powers shall be conferred on the recommendation of the High Court.

Provided further that the Provincial Government may authorize a District Magistrate to invest any Magistrate subordinate to him with any of the powers specified in Part-II of the Fourth Schedule.”

Insertion
of Section 38,
Act V of 1898.

17. In the aforesaid Code, after section 37, the following section (38) shall be inserted, namely;

“38. Control of District Magistrate Investing power. The powers conferred on the District Magistrate by section 37 shall be exercised subject to the control of the Provincial Government.”

Substitution
of Section 41,
Act V of 1898.

18. In the aforesaid Code, for section 41, the following shall be substituted, namely;

“41. Withdrawal of Powers---The Provincial Government may withdraw all or any powers conferred by it under this Code, on any person or Magistrate:

Provided that, in case of Judicial Magistrate, the withdrawal of powers shall not be made except on the recommendation of the High Court.

Provided further that the powers conferred by the District Magistrate may be withdrawn by the District Magistrate.”

Amendment

19. In the aforesaid Code, in section 45,-

in Section 45,
Act V of 1898.

(a) in sub section (1), in clause (f), for the words “any officer authorized by the Provincial Government”, the words “the District Magistrate” shall be substituted; and

(b) in sub section (3),-

(i) In the marginal heading, after the word “village headmen” the words “by District Magistrate or Sub Divisional Magistrate” shall be inserted; and

(ii) for the words and brackets “District Officer (Revenue)”, the words “District Magistrate or Sub-Divisional Magistrate” shall be substituted.

Amendment
in Section 62,
Act V of 1898.

20. In the aforesaid Code, in section 62, for the words, commas, brackets and figures “Zila Nazim, District Superintendent of Police and District Public Safety Commission set up under the Police Act, 1861 (V of 1861), simultaneously” the words and commas “District Magistrate, or if he so directs, to the Sub Divisional Magistrate” shall be substituted.

Amendment
in Section 78,
Act V of 1898.

21. In the aforesaid Code, in section 78, in sub section (1), for the words “Magistrate of the First Class” the words, “District Magistrate or Sub-Divisional Magistrate” shall be substituted.

Amendment in
Section 88,
Act V of 1898.

22. In the aforesaid Code, in section 88; (a) In sub section (2), for the words “Sessions Judge”, the words “District Magistrate” shall be substituted;

(b) In sub section (4), for the words and brackets “District Officer (Revenue)”, the words “Collector of the District” shall be substituted;

(c) In sub section (6-B), for the words “Sessions Judge”, the words “District Magistrate” shall be substituted; and

(d) In sub section (6-C), (i) After the word “Court”, the word “or Magistrate” shall be omitted; and

(ii) The full stop appearing at the end shall be replaced by a colon and thereafter, the following proviso shall be added, namely;

“Provided that if it is preferred or made in the court of District Magistrate such Magistrate may make it over for disposal to any Magistrate subordinate to him.”

Amendment
in Section 95,
Act V of 1898.

23. In the aforesaid Code, in section 95,-

(a) In sub section (1), before the words “Magistrate”, appearing for the first time the word “District” shall be inserted; and

(b) In sub section (2), before the words “Court”, appearing at the end of sub section, the words and comma “District Magistrate, or” shall be inserted.

Amendment
in Section 96,
Act V of 1898.

24. In the aforesaid Code, in section 96, after sub section (1), the following sub section (2) shall be added namely;

“(2) nothing herein contained shall authorize any Magistrate other than a District Magistrate to grant a warrant to search for a document, parcel or other thing in the custody of the postal or telegraph authorities.”

Amendment
in Section 98,
Act V of 1898.

25. In the aforesaid Code, in section 98, in sub section (1), before the words “Magistrate of the First Class” appearing at the beginning, the words and comas “District Magistrate, Sub Divisional Magistrate, or” shall be inserted.

Amendment
in Section 100,
Act V of 1898.

26. In the aforesaid Code, in section 100, after the words “Magistrate of the First Class”, the words “or Sub Divisional Magistrate” shall be inserted.

Amendment
in Section 106,
Act V of 1898.

27. In the aforesaid Code, in section 106, in sub section (1), after the words “or the court of” the word and comma “a District Magistrate, a Sub Divisional Magistrate or” shall be inserted.

Amendment
in Section 107,
Act V of 1898.

28. In the aforesaid Code, in section 107,-

(a) In sub section (1), for the words “Magistrate of the First Class”, the words “District Magistrate or Sub Divisional Magistrate or an Executive Magistrate specially empowered

in this behalf by the Provincial Government or the District Magistrate” shall be substituted; and

(b) In sub section (2), for the words “except with the approval of the Sessions Judge” the words “other than a District Magistrate” shall be substituted.

Amendment
in Section 108,
Act V of 1898.

29. In the aforesaid Code, in section 108, before the words “Magistrate of the First Class”, the words “a District Magistrate or a Sub Divisional Magistrate or an Executive” shall be inserted.

Amendment
in Section 109,
Act V of 1898.

30. In the aforesaid Code, in section 109, before the words “Magistrate of First Class” the words “a District Magistrate or a Sub Divisional Magistrate or an Executive” shall be inserted.

Amendment
in Section 110,
Act V of 1898.

31. In the aforesaid Code, in section 110, before the words “Magistrate of the First Class” the words “a District Magistrate or a Sub Divisional Magistrate or an Executive” shall be inserted.

Amendment
in Section 124,
Act V of 1898.

32. In the aforesaid Code, in section 124,-

(a) in sub section (1), for the words “Sessions Judge” the words “District Magistrate” shall be substituted;

(b) in sub section (2), for the words “Sessions Judge” the words “District Magistrate” shall be substituted;

(c) in sub section (5), for the words “Sessions Judge” the words “District Magistrate” shall be substituted;

and

(d) in sub section (6) (i) in the first paragraph, for the words “Sessions Judge” the words “District Magistrate” shall be substituted; and

(ii) in the second paragraph, for the word “Sessions Judge” the words “District Magistrate” shall be substituted;

Amendment
in Section 125,
Act V of 1898.

33. In the aforesaid Code, in section 125, for the words “Sessions Judge”, the words “District Magistrate” shall be substituted.

- Amendment
in Section 126,
Act V of 1898.
34. In the aforesaid Code, in section 126, in sub section (1), for the words “concerned Magistrate of the First Class”, the words “District Magistrate or Sub Divisional Magistrate” shall be substituted.
- Amendment
in Section 127,
Act V of 1898.
35. In the aforesaid Code, in section 127, after the word “any” appearing at the beginning, the word “Executive Magistrate or” shall be inserted.
- Amendment
in Section 128,
Act V of 1898.
36. In the aforesaid Code, in section 128;
- (a) before the words, “officer in charge of a Police Station” the words, “Executive Magistrate or” shall be inserted; and
- (b) the proviso at the end of the section shall be substituted by the following:
- “Provided that for dispersing any assembly, firing shall not be resorted to except under the specific direction of a District Magistrate or Sub Divisional Magistrate or an Executive Magistrate of the First Class.”
- Amendment
in section 129,
Act V of 1898.
37. In the aforesaid Code, in section 129 for the words and comma, “the Police officer of the highest rank not below an Assistant Superintendent or Deputy Superintendent of Police” the words, “Executive Magistrate of highest rank” shall be substituted.
- Amendment
in section 130,
Act V of 1898.
38. In the aforesaid Code, in section 130;
- (a) For the words and comma, “the Police officer of the highest rank not below an Assistant Superintendent or Deputy Superintendent of Police” the words, “Executive Magistrate of highest rank” shall be substituted; and
- (b) The word, “or such Police officer” shall be omitted.
- Amendment
in section 131,
Act V of 1898.
39. In the aforesaid Code, in section 131;
- (a) for the words, “Police officer of the highest rank not below an Assistant Superintendent or Deputy Superintendent of Police” the words, “Executive Magistrate” shall be substituted;

(b) for the words, “a Police officer of the highest rank not below an Assistant Superintendent or Deputy Superintendent of Police” appearing for the second time, the words “an Executive Magistrate” shall be substituted; and

(c) for the words “such Police officer” the words, “Executive Magistrate” shall be substituted.

Amendment
in section 132,
Act V of 1898.

40. In the aforesaid Code, in section 132, in clause (a) after the word “no”, the word, “Magistrate or” shall be inserted.

Amendment
of Section 133,
Act V of 1898.

41. In the aforesaid Code, in section 133, in sub section (1);

(a) in the first paragraph, for the words “Magistrates of the First Class” the words and comma “District Magistrate, a Sub Divisional Magistrate or an Executive Magistrate” shall be substituted; and

(b) in the last paragraph, for the words “Magistrate of the First Class” the words “Executive Magistrate” shall be substituted.

Amendment
in Section 143,
Act V of 1898.

42. In the aforesaid Code, in section 143, for the words “Magistrate of First Class” the words “District Magistrate or Sub Divisional Magistrate or any other Executive Magistrate empowered by the Provincial Government or a District Magistrate in this behalf” shall be substituted.

Amendment
of Section 144,
Act V of 1898.

43. In the aforesaid Code, in section 144,

(a) in sub section (1),-

(i) for the words “the Zila Nazim upon the written recommendation of the District Superintendent of Police or Executive District Officer” the word “District Magistrate, Sub-Divisional Magistrate or any other Executive Magistrate” shall be substituted.

(ii) In the second paragraph, for the words “the Zila Nazim”, occurring twice, the words “such Magistrate” shall be substituted.

(b) in sub section (4) for the words “The Zila Nazim” the words “Any Executive Magistrate” shall be substituted.

(c) in sub section (5), for the words “Zila Nazim” occurring twice, the words “Executive Magistrate” shall be substituted.

(d) in sub-section (6), for the words “consecutive days and not more than seven days in a month”, the word “months” shall be substituted; and

(e) the sub-section (7) alongwith the proviso thereafter shall be omitted.

Amendment
in Section 145,
Act V of 1898.

44. In the aforesaid Code, in section 145, in sub section (1), for the words “Magistrate of the First Class” the words “District Magistrate or Sub-Divisional Magistrate or an Executive Magistrate specially empowered by the Provincial Government in this behalf” shall be substituted.

Amendment
in Section 146,
Act V of 1898.

45. In the aforesaid Code, in section 146, in sub section (1), in the proviso, after the words “provided that” the words “District Magistrate or” shall be inserted.

Amendment
in Section 147,
Act V of 1898.

46. In the aforesaid Code, in section 147, in sub section (1), for the words “Magistrate of the First Class” the words and comma ”District Magistrate, or Sub Divisional Magistrate or an Executive Magistrate specially empowered by the Provincial Government in this behalf” shall be substituted.

Amendment
in Section 148,
Act V of 1898.

47. In the aforesaid Code, in section 148, in sub section (1), for the words “a Sessions Judge” the words “District Magistrate or Sub Divisional Magistrate” shall be substituted.

Amendment
in Section 167,
Act V of 1898.

48. In the aforesaid Code, in section 167, in sub section (1), the following explanation shall be added namely;-
“Explanation For the purpose of this section, in the cases triable by the Executive Magistrate, the expression, “the nearest Magistrate” means the Executive Magistrate of the

First Class having jurisdiction in the area and in all other cases the Judicial Magistrates.”

Amendment
in Section 174,
Act V of 1898.

49. In the aforesaid Code, in section 174.-

(a) in sub section (1) after the words “by the Provincial Government” appearing for the second time, the words “or by any general or special order of the District or Sub Divisional Magistrate” shall be inserted;

(b) in sub section (2), for the word “concerned Magistrate”, the words “District Magistrate or Sub-Divisional Magistrate” shall be substituted; and (c) for sub section (5), the following shall be substituted, namely;

“(5) The following Magistrates are empowered to hold inquiries, namely any District Magistrate, Sub-Divisional Magistrate or any other Executive Magistrate specially empowered in this behalf by the Provincial Government or the District Magistrate.”

Amendment
in Section 186,
Act V of 1898.

50. In the aforesaid Code, in section 186, in sub section (1), at the beginning, after the word “when” the words and commas “a District Magistrate, a Sub Divisional Magistrate or, if he is specially empowered in this behalf by the Provincial government,” shall be inserted.

Amendment
in Section 190,
Act V of 1898.

51. In this Code, for section 190, the following shall be substituted, namely;

“190. Cognizance of offences by Magistrate.-(1) Except as hereinafter provided any District Magistrate or a Sub Divisional Magistrate, or any other Magistrate specially empowered in this behalf may take cognizance of any offence:

(a) upon receiving a complaint of facts which constitute such offence ;

(b) upon a report in writing of such facts made by any police officer ; and

(c) upon information received from any person other than police officer, or upon his knowledge or suspicion, that such offence has been committed.

(2) The Provincial Government may empower any Magistrate to take cognizance under sub-section (1) clause (a) or clause (b) of offences for which he may try or sent to the Court of Sessions for trial:

Provided that in the case of Judicial Magistrate the Provincial Government shall exercise this power on the recommendation of the High Court.

(3) A Magistrate taking cognizance under sub-section (1) of the offence triable exclusively by a Court of Sessions shall, without recording any evidence, send the case to the Court of Session for trial.”

Amendment
in Section 191,
Act V of 1898.

52. In the aforesaid Code, in section 191,-

(a) before the words “to the Sessions Judge” the words, “in case of Judicial Magistrate,” shall be added; and

(b) after the words “Sessions Judge” the words, “and in the case of Executive Magistrate, to the District Magistrate” shall be added.

Substitution
of Section 192,
Act V of 1898.

53. In the aforesaid Code, for section 192, the following shall be substituted, namely:

“192. Transfer of the cases by Magistrates.- (1) Any District Magistrate or Sub-Divisional Magistrate may transfer any case, of which he has taken cognizance, for inquiry or trial to any Magistrate Sub-ordinate to him.

Provided that if the offence is triable by the Judicial Magistrate the case shall be sent to the Court of Sessions for transfer to such Magistrate.

(2). Any District Magistrate may empower any executive Magistrate sub-ordinate to him, who has taken cognizance of any case, to transfer such case for inquiry or trial to any other Executive Magistrate in his district who is competent under this Code to try the accused; and such Magistrate may dispose of the case accordingly.

(3). A Sessions Judge may empower any Judicial Magistrate, who has taken cognizance of any case, to transfer such case for trial to any other Judicial Magistrate in his

district, and such Magistrate may dispose of this case accordingly”.

Amendment in Section 193, Act V of 1898. 54. In the aforesaid Code, in section 193, in sub section (1), for the brackets and figure “(2)”, the brackets and figure “(3)” shall be substituted.

Amendment in Section 195, Act V of 1898. 55. In the aforesaid Code, in section 195, in sub section(1), in clause(a), after the word, “Subordinate” the words “of some other public servant who is authorized by general or specific orders of such public servant” shall be inserted.

Amendment in Section 196- A, Act V of 1898. 56. In the aforesaid Code, in section 196-A, in clause (2), for the words “Officer-in-charge of the prosecution in the District”, the words “a District Magistrate” shall be substituted.

Amendment in Section 196-B, Act V of 1898. 57. In the aforesaid Code, in section 196-B, for the words “Officer-in-charge of the investigation in the District”, the words “a District Magistrate” shall be substituted.

Amendment in Section 249, Act V of 1898. 58. In the aforesaid Code, in section 249, after the words and comma “Sessions Judge,” the words “in case of Judicial Magistrate and District Magistrate in the case of Executive Magistrate” shall be inserted.

Amendment in Section 386, Act V of 1898. 59. In the aforesaid Code, in section 386,-
(a) in sub-section (1), in clause (b), for the words and brackets “District Officer (Revenue)” the words “Collector of the District” shall be substituted; and

(b) In sub-section (3), for the words and brackets “District Officer (Revenue)” the word “Collector of the District” shall be substituted.

Amendment in section 406, Act V of 1898. 60. In the aforesaid Code, for section 406, the following shall be substituted, namely;

“406. Appeal from order requiring security for keeping the peace or for good behavior.---Any person who has been ordered by a Magistrate under section 118 to give

security for keeping the peace or for good behavior may appeal against such order to the Court of Sessions:

Provided that nothing in this section shall apply to the person the proceeding against whom are laid before the Sessions Judge in accordance with the provisions of sub-section (2) or sub-section (3-A) of section 123.”

Amendment
in Section 436,
Act V of 1898.

61. In the aforesaid Code, in section 436, in clause (b), for the words “any Magistrate”, the words “the District Magistrate by himself or by any of the Executive Magistrates subordinate to him” shall be substituted.

Amendment
in Section 503,
Act V of 1898.

62. In the aforesaid Code, in section 503, in sub section (1),-

(a) after the words “appears to”, the words and comma “a District Magistrate” shall be inserted;

(b) after the words and comma “unreasonable, such”, the words “Magistrate or” shall be inserted; and

(c) before the words “Magistrate of First Class”, the words “District Magistrate or” shall be inserted.

(d)

Amendment
in Section 506,
Act V of 1898.

63. In the Code, in section 506,- (a) after the words “any Magistrate”, the words and comma “other than a District Magistrate” shall be inserted;

(b) after the words “such Magistrate” the comma and words “if he is a Judicial Magistrate,” shall be inserted;

(c) after the words “apply to the Sessions Judge”, the words and comma “and if he is an Executive Magistrate, shall apply to the District Magistrate”, shall be inserted; and

(e) after the words “and the Sessions Judge”, the words and commas “or the District Magistrate, as the case may be,” shall be inserted.

(f)

Amendment
in Section 514,
Act V of 1898.

64. In the aforesaid Code, in section 514, in sub section (3), for the words and brackets “District Officer (Revenue)”, the words “Collector of the District” shall be substituted.

Substitution
of Section 515,
Act V of 1898.

65. In the aforesaid Code, for section 515, the following shall be substituted, namely:

“515 Appeals from, and revision of, order under section 514,--- All orders passed under section 514 by a District Magistrate or Judicial Magistrate shall be appealable to Sessions Judge, and all orders passed by an Executive Magistrate other than a District Magistrate shall be appealable to the District Magistrate , or if no appeal is made against any such order, may be revised, in the case of an order passed by a District Magistrate or a Judicial Magistrate, by the Sessions Judge, and in the case of an order passed by an Executive magistrate other than a District Magistrate, by the District Magistrate.”

Amendment
in section 517,
Act V of 1898.

66. In the aforesaid Code, in section 517, in sub section (2), for the words “District Officer (Revenue)”, the words “District Magistrate” shall be substituted.

Amendment
in Section 518,
Act V of 1898.

67. In the aforesaid Code, in Section 518,-

(a) in the marginal heading, after the words “reference”, the words “to District Magistrate or Sub Divisional Magistrate” shall be inserted; and

(b) for the words “a Magistrate of the First Class” the words “District Magistrate or to a sub Divisional Magistrate,” shall be substituted.

Amendment
in Section 524,
Act V of 1898.

68. In the aforesaid Code, in Section 524, in Sub Section (1), for the words “Magistrate of the First Class”, the words “District Magistrate or Sub Divisional Magistrate, or any other Executive Magistrate” shall be substituted.

Insertion
of Section 528-A,
Act V of 1898.

69. In the aforesaid Code, after section 528, the following section 528-A shall be inserted, namely;

“528-A Powers of District Magistrate for transfer of cases, etc. --- (1) A District Magistrate may withdraw or recall any case which he has made over to a Magistrate subordinate to him.

(2) Where a District Magistrate withdraws or recalls a case under sub section (1), he may either try the case himself or make it over in accordance with the provisions of this Code for trial to any other Magistrate subordinate to him. **Explanation:** For the purpose of this section, the Executive Magistrate shall be subordinate to the District Magistrate.”

Amendment
of Section 552,
Act V of 1898.

70. In the aforesaid Code, in section 552, for the words “Sessions Judge” the words “District Magistrate” shall be substituted.

Amendment
of Section 559,
Act V of 1898.

71. In the aforesaid Code, in section 559, in sub section (2), after the words “Sessions Judge”, the words and comma “in the case of a Judicial Magistrate, and the District Magistrate in the case of an Executive Magistrate” shall be inserted.

Amendment
in Schedule-III,
Act V of 1898.

72. In the aforesaid Code, in Schedule III, after Part-III, the following Part (IV) and (V) shall be added.

“PART-IV

Ordinary Powers of a Sub Divisional Magistrate

Appointed Under Section 13

1. The ordinary powers of a Magistrate of the First Class.
2. Power to direct warrants to landholders, section 78.
3. Power to issue search warrant otherwise than in course of an inquiry, section 98.
4. Power to issue search warrant for discovery of persons wrongfully confined, section 100.
5. Power to require security to keep peace, section 107
6. Power to require security for good behavior, section 109.
7. Power to require security for good behavior, section 110.
8. Power to discharge sureties, section 126-A
9. Power to make orders as to Local nuisances, section 133.
10. Power to make orders prohibiting repetitions of nuisances, section 143.
11. Power to make orders under, section 144.
12. Power to make orders etc. in possession cases, section 145, 146 and 147.

13. Power to depute subordinate Magistrate to make local inquiries section, 148.
14. Power to order police investigation into cognizable case, section 156.
15. Power to receive report of police officer and pass order, section 173.
16. Power to hold inquests, section 174.
17. Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction, section 186.
18. Power to entertain complaints, section 190.
19. Power to receive police reports, section 190.
20. Power to entertain case without complaints, section 190.
21. Power to transfer case to a subordinate Magistrate, section 192.
22. Power to pass sentence on proceedings recorded by a Subordinate Magistrate, section 349.
23. Power to forward record of inferior court to District Magistrate, section 435 (2).
24. Power to sell property alleged or suspected to have been stolen etc., section 524.

PART-V

Ordinary Powers of 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 authority, Section 96.
4. Power to require security for good behavior in case of sedition, section 108.
5. Power to release person imprisoned for failing to give security, 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 196-B
8. Power to tender pardon to accomplice at any stage of a case, section 337.
9. Power to hear appeals from order requiring security for keeping the peace or good behavior, section 406.

10. Power to hear appeals from order of Magistrate refusing to accept or rejecting sureties, section 406-A.
11. Power to hear or refer appeals from convictions by Magistrate of the second and third classes, section 407.
12. Power to call for records, section 435.
13. Power to order inquiry into complaint dismissed, or case of accused discharged, section 436.
14. Power to appoint person to be public prosecutor in particular cases, section 492(2).
15. Power to issue commission for examination of witness, section, 503, 506.
16. Procedure on forfeiture of bond, section, 514
17. Power to hear appeals from or revise orders passed under, section, 515.
18. Power to withdraw cases other than appeals, and to try or refer them for trial, Section 528-A.
19. Power to compel restoration of abducted female, section 552”

Amendment
in Schedule IV,
Act V of 1898.

73. In the aforesaid Code, in schedule IV,-

(a) In Part-I, after entry No.1, the following new entries shall be inserted namely;

“(2) Power to issue process for persons 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 report, section 190

(5) Power to take cognizance of offences without complaint, section 190

(6) Power to transfer cases, section 192.”

(b) after Part-I, the following Part-II shall be inserted, namely;

“PART-II

Power with which any of the Executive Magistrates may be invested by the Provincial Government

1. Power to make order prohibiting repetition of nuisance, section 143.

Power to make orders under Section, 144.

3. Power to make orders etc. in possession cases, section 145 and 147.
4. Power to hold inquests, section 174.
5. Power to sell property alleged or suspected to have been stolen etc., section 524.

Power with which any Executive Magistrates may be Invested by the District Magistrate.

1. Power to make order prohibiting repetition of nuisance, section 143.

2. Power to make orders under section, 144.

3. Power to hold inquests, section 174”.

Amendment
in Schedule V,
Act V of 1898.

74. In the aforesaid Code, in Schedule V,-

(a) In Form-III, before the word “Magistrate” the word “District” shall be inserted.

(b) In Form-VI, relating to authorizing an attachment, for the words and brackets “District Officer (Revenue)”, the words “Collector of the District” shall be substituted.

(c)

Repeal and savings

75. (1) The Code of Criminal Procedure (Balochistan Amendment) Ordinance 2010 (III of 2010) is hereby repealed.

(2) Notwithstanding the repeal of the Ordinance mentioned in sub-section (1), any thing done, action taken, obligation, liability, penalty or punishment, incurred, inquiry or proceeding commenced, person appointed or person authorized, jurisdiction or power conferred and order issued under any of the provision of the aforesaid ordinance shall if not inconsistent with the Provision of this Act continue in force and shall be deemed to have been respectively done, taken, incurred, commenced, appointed, authorized, conferred, made, imposed, released or issued under this Act.

**Secretary
Balochistan Provincial
Assembly.**