

The Code of Criminal Procedure, 1898

(ACT NO. V OF 1898)

¹♣An Act to consolidate and amend the law relating to the Criminal Procedure.

WHEREAS it is expedient to consolidate and amend the law relating to Criminal Procedure; It is hereby enacted as follows:

PART I

PRELIMINARY

CHAPTER I

- Short title** 1.(1) This Act may be called the Code of Criminal Procedure, 1898; and it
- Commencement** shall come into force on the first day of July, 1898.
- Extent** (2) It extends to the whole of Bangladesh; but, in the absence of any specific provision to the contrary, nothing herein contained shall affect any special ²[* * *] 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.
- Repealed** 2. [Repealed by the Repealing and Amending Act, 1914 (Act No. X of 1914).]
- (1) Omitted** 3.(1) [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973).]
- (2) Expressions in former Acts** (2) 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

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mean "Magistrate of the first class," "Magistrate of the second class" and
"Magistrate of the third class," ³[***] the expression "Magistrate of the
district" shall be deemed to mean "District Magistrate," ⁴[***].

Definitions

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

⁵[(a) "advocate", used with reference to any proceeding in any Court, means an advocate or a mukhtar authorised under any law for the time being in force to practise in any such Court and includes any other person appointed with the permission of the Court to act in such proceeding;

(aa) "Attorney-General" means the Attorney-General for Bangladesh, and includes also the Additional Attorney-General, the Deputy Attorney-General or the Assistant Attorney-General for Bangladesh, or, a Government advocate or such officer as the Government may, from time to time, appoint in this behalf:]

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

(d) [Repealed by section 3 and Schedule II of the Repealing and Amending Act, 1923 (Act No. XI of 1923).]

(e) Clerk of the State includes any officer specially appointed by the Chief Justice to discharge the functions given by this Code to the Clerk of the State:

(f) "cognizable offence" means an offence for, and "cognizable case" means a case in, which a Police-officer, may, in accordance with the second schedule or under any law for the time being in force, arrest without warrant:

(g) [Omitted by the Schedule of the Adaptation of Central Acts and Ordinances Order, 1949.]

(h) "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:

⁶[(hh) "Court of Session" includes a Metropolitan Court of Session;]

(i) [Omitted by the Schedule of the Criminal Law (Extinction of Discriminatory Privileges) Act, 1949 (Act No. II of 1950).]

⁷[(j) "High Court Division" means the High Court Division for criminal appeal or revision:]

(k) "inquiry" includes every inquiry other than a trial conducted under this Code by a Magistrate or Court:

(l) "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 Magistrate in this behalf:

(m) "judicial proceeding" includes any proceeding in the course of which evidence is or may be legally taken on oath:

(n) "non-cognizable offence" means an offence for, and "non-cognizable case" means a case in, which a police-officer, may not arrest without warrant:

(o) "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:

(p) "officer in charge of a police-station" includes, when the officer in charge of the police-station is absent from the station-house or unable from illness or other cause to perform his duties, the police-officer present at the station house who is next in rank to such officer and is above the rank of constable or, when the Government so directs, any other police-officer so present:

(q) "place" includes also a house, building, tent and vessel:

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 (r) [Omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision And Declaration) Act, 1973 (Act No. VIII of 1973)]:

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

(t) "Public Prosecutor" means any person appointed under section 492, and includes any person acting under the directions of a Public Prosecutor⁸[* * *]:

⁹[(u) "Upazila" means a Upazila as defined in the Upazila Parisad Act, 1998 (Act. No. 24 of 1998)]

(v) and (w) [Omitted by section 2 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).]

Words referring to acts

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

Words to have same meaning as in Penal Code

all words and expressions used herein and defined in the Penal Code, and not hereinbefore defined, shall be deemed to have the meanings respectively attributed to them by that Code.

Construction of references.

¹⁰[4A. (1) In this Code, unless the context otherwise requires, any reference-

(a) without any qualifying word, to a Magistrate, shall be construed as a reference to a Judicial Magistrate;

(b) with a qualifying word not being a word clearly indicating a Judicial Magistrate shall be construed as a reference to a Magistrate as indicated in sub-section (2) (b);

(c) to a Sub-divisional Magistrate shall be construed as a reference to-

(i) the District Magistrate if the functions exercisable are of the nature specified in clause (b) of sub-section (2); or

(ii) the Chief Judicial Magistrate or as the case may be, the Chief Metropolitan Magistrate, if the functions exercisable are of the nature

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specified in clause (a) of sub-section (2);

(d) to an Assistant Sessions Judge, shall be construed as a reference to a joint Sessions Judge;

(e) to any area which is included in a Metropolitan area, shall be construed as a reference to such Metropolitan area;

(f) to any reference to a Magistrate of the first, second or third class in relation to an area which is included in a Metropolitan area, shall be construed as a reference to the Metropolitan Magistrate exercising jurisdiction in that area;

(g) to a Magistrate of the first, second or third class in relation to an area outside a Metropolitan Area, shall be construed as a reference to a Judicial Magistrate of the first, second or third class exercising jurisdiction in that area.

(2) Where, under any law for the time being in force other than this Code, the functions exercisable by a Magistrate relate to matters-

(a) which involve the appreciation or sifting of evidence or the formulation of any decision which exposes any person to any punishment or penalty of detention in custody pending investigation, inquiry or trial or other proceeding or would have the effect of sending him for trial before any Court, they shall subject to the provision of the Code, be exercisable by a judicial Magistrate; or

(b) which are administrative or executive in nature, such as the granting of a licence, the suspension or cancellation of a licence, sanctioning a prosecution or withdrawing from a prosecution, they shall, subject as aforesaid, be exercisable by an Executive Magistrate.]

Trial of offences under Penal Code

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

Trial of offences against other laws

(2) 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