

THE CODE OF CRIMINAL PROCEDURE, 1898

(ACT NO. V OF 1898).

[22nd March, 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
Commencement**

1.(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.

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Repealed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 [Repealed by the Repealing and Amending Act, 1914 (Act No. X of 1914).]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 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:

(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 construed 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 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 or 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 or place of investigating, inquiring into, trying or otherwise dealing with such offences.

PART II

CONSTITUTION AND POWERS OF CRIMINAL COURTS AND OFFICES

CHAPTER II

OF THE CONSTITUTION OF CRIMINAL COURTS AND OFFICES

A.—Classes of Criminal Courts

Classes of Criminal Courts

¹¹[6.(1) Besides the Supreme Court and the Courts constituted under any law for the time being in force, other than this Code, there shall be two classes of Criminal Courts in Bangladesh, namely: -

(a) Courts of Sessions ; and

(b) Courts of Magistrates.

(2) There shall be two classes of Magistrate, namely: -

(a) Judicial Magistrate; and

(b) Executive Magistrate.

(3) There shall be four classes of judicial Magistrate, namely: -

(a) Chief Metropolitan Magistrate in Metropolitan Area and Chief judicial Magistrate to other areas;

(b) Magistrate of the first class, who shall in Metropolitan area, be known as Metropolitan Magistrate;

(c) Magistrate of the second class; and

(d) Magistrate of the third class.

Explanation: For the purpose of this sub-section, the word "Chief

Metropolitan Magistrate" and "Chief judicial Magistrate" shall include "Additional Chief Metropolitan Magistrate" and "Additional Chief judicial Magistrate" respectively.]

B. —Territorial Divisions

Sessions divisions and districts

7.(1) Bangladesh shall consist of sessions divisions: and every sessions division shall, for the purposes of this Code, be a district or consist of districts.

Power to alter divisions and districts

(2) The Government may alter the limits or the number of such divisions and districts.

Existing divisions and districts maintained till altered

. (3) The sessions divisions and districts existing when this Code comes into force shall be sessions divisions and districts respectively, unless and until they are so altered.

¹²[(4) ¹³[A] Metropolitan Area shall, for the purposes of this Code, be deemed to be a sessions division.]

Power to divide districts into Upazilas etc

¹⁴[8. The Government may divide a district into Upazilas and, by notification in the official Gazette, fix or alter the limits of a Upazila or merge the areas of more than one Upazila into one Upazila and in so fixing, altering or merging, the Government shall ensure that the area of a Upazila is identical with the local area included in a Police Station.]

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.

C.—Courts and Offices

Court of Sessions

9.(1) The Government shall establish a Court of Session for every sessions division, and appoint a judge of such Court ¹⁵[; and the Court of Session for ¹⁶[a] Metropolitan Area shall be called the Metropolitan Court of Session.]

(2) The Government may, by general or special order in the official Gazette, direct at what place or places the Court of Session shall hold its sittings; but, until such order is made, the Courts of Session shall hold their sittings as heretofore.

(3) The Government may also appoint Additional Sessions Judges and Assistant Sessions Judges to exercise jurisdiction in one or more such Courts.

¹⁷[***]]

¹⁸[(3A) The members of the Bangladesh Judicial Service shall be appointed as Sessions Judge, Additional Sessions Judge and Joint Sessions Judge in accordance with the rules framed by the President under the proviso to Article 133 of the constitution to exercise jurisdiction in one or more of such areas.]

(4) A Sessions Judge of one sessions division may be appointed by the Government to be also an Additional Sessions Judge of another division, and in such case he may sit for the disposal of cases at such place or places in either division as the Government may direct.

(5) All Courts of Session existing when this Code comes into force shall be deemed to have been established under this Act.

Executive Magistrates

¹⁹[10.(1) In every district and in every Metropolitan Area, the Government shall appoint as many persons as it thinks fit to be Executive Magistrates and shall appoint one of them to be the District Magistrate.

(2) The Government may also appoint any Executive Magistrate to be an Additional District Magistrate, and such Additional District Magistrate shall have all or any of the powers of a District Magistrate under this Code or under any other law for the time being in force, as the Government may direct.

(3) Whenever in consequence of the office of a District Magistrate becoming vacant, any officer succeeds temporarily to the chief executive in the administration of the district, such officer shall, pending the orders of the Government, exercise all the powers and perform all the duties respectively conferred and imposed by this Code on the District Magistrate.

(4) The Government may, or subject to the control of the Government, the District Magistrate may, from time to time, by order define local areas within which the Executive Magistrate may exercise all or any of the powers with which they may be invested under this Code and, except as otherwise provided by such definition, the jurisdiction and powers of every such Executive Magistrate shall extend throughout the district.

(5) The Government may, if it thinks expedient or necessary, appoint any persons employed in the Bangladesh Civil Service (Administration) to be an Executive Magistrate and confer the powers of an Executive Magistrate on any such member.

(6) Subject to the definition of the local areas under sub-section (4) all persons appointed as Assistant Commissioners, Additional Deputy

Commissioners or Upazila Nirbahi Officer in any District or Upazila shall be Executive Magistrates and may exercise the power of Executive Magistrate within their existing respective local areas.

(7) Nothing in this section shall preclude the Government from conferring, under any law for the time in force, on a Commissioner of Police, all or any of the powers of an executive Magistrate in relation to a Metropolitan area.]

Judicial Magistrates

²⁰[11. (1) In every district outside a Metropolitan Area, the Chief Judicial Magistrates, Additional Chief Judicial Magistrates and other Judicial Magistrates shall be appointed from the persons employed in the Bangladesh Judicial service in accordance with the rules framed by the President under the proviso to Article 133 of the constitution.

(2) An Additional Chief Judicial Magistrate shall have all or any of the powers of the Chief Judicial Magistrate under this Code or any other law for the time being in force, as the Government may direct.

²¹[(2A) The Government may, by general or special order in the official Gazette, direct at what place or places the Court of Chief Judicial Magistrate, Additional Chief Judicial Magistrate and other Judicial Magistrates shall hold its sitting.]

(3) The Government may, or subject to the general or special orders issued by the Government in consultation with the High Court Division, the Chief Judicial Magistrate may, from time to time, define local areas within which the Judicial Magistrates may exercise all or any of the powers with which they may be invested under this Code, and except as otherwise provided by such definition, the jurisdiction and powers of every such Magistrate shall extend throughout the district.

(4) Notwithstanding anything contained in this section, the Government may require any Executive Magistrate to perform the functions of a Judicial Magistrate for a period to be determined in consultation with the High Court Division and during such period, the Magistrate shall not perform the functions of an Executive Magistrate.]

Special Magistrate

²²[12. (1) The Government may confer upon any person all or any of the powers conferred or conferrable by or under this Code on an Executive Magistrate in respect of particular cases or a particular class or classes of cases, or in regard to cases generally in any local area outside a Metropolitan area:

Provided that no power shall be conferred under the sub-section on any police officer below the grade of an Assistant Superintendent of Police and no powers shall be conferred on a such police officer except so far as may be necessary for preserving the peace, preventing crime and detecting apprehending and detaining offenders, in order to bring the offender before a Magistrate, and for the performance by the officer of any other duties imposed upon him by any law for the time being in force.

(2) The persons on whom the powers under sub-section (1) are conferred

shall be called Special Executive Magistrates and shall be appointed for such term as the Government may by general or special order direct.

(3) The Government may, in consultation with the High Court Division confer upon any Magistrate all or any of the powers conferred or conferrable by or under this Code on a Judicial Magistrate of the first, second or third class in respect of particular cases or a particular class or classes of cases or in regard to cases generally in any local area outside a Metropolitan area.

(4) The Magistrate on whom the powers under sub-section (3) are conferred shall be called Special Magistrates and shall be appointed for such term as the Government may, in consultation with the High Court Division, by general or special order direct.

(5) The Government may in consultation with the High Court Division confer upon any Metropolitan Magistrate all or any of the powers conferred or conferrable by or under this Code on Metropolitan Magistrate in respect of particular cases or a particular class or classes, or in regard to cases generally in any Metropolitan Area.

(6) The persons on whom the powers under sub-section (5) are conferred shall be called Special Metropolitan Magistrates and shall be appointed for such term as the Government may in consultation with High Court Division by general or special order direct.]

Benches of Magistrates

15.(1) The Government may direct any two or more Magistrates in any place ²³[outside ²⁴[a] Metropolitan Area] to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class, and direct it to exercise such powers in such cases, or, such classes of cases only, and within such local limits, as the Government thinks fit.

Powers exercisable by Bench in absence of special direction

(2) Except as otherwise provided by any order under this section, every such Bench shall have the powers conferred by this Code on a Magistrate of the highest class to which any one of its members, who is present taking part in the proceedings as a member of the Bench, belongs, and as far as practicable shall, for the purposes of this Code, be deemed to be a Magistrate of such class.

Power to frame rules for guidance of Benches

16. The Government may, or, subject to the control of the Government, the ²⁵[Chief Judicial Magistrate] may, from time to time, make rules consistent with this Code for the guidance of Magistrates' Benches in any district respecting the following subjects: -

(a) the classes of cases to be tried;

- (b) the times and places of sitting;
- (c) the constitution of the Bench for conducting trials;
- (d) the mode of settling differences of opinion which may arise between the Magistrates in session.

Subordination of Executive, Judicial and Metropolitan Magistrates

²⁶[17. (1) All Executive Magistrate appointed under section 10 and 12 (1) shall be subordinate to the District Magistrate who may, from time to time, give special order consistent with this Code as to the distribution of business among such Magistrates.

(2) All Judicial Magistrates appointed under section 11 and 12 (3) and all Benches constituted under section 15 shall be subordinate to the Chief Judicial Magistrate who may, from time to time give special orders consistent with this Code and rules made by the Government under section 16 as to the distribution of business among Magistrates and Benches.

(3) All Metropolitan Magistrates including Additional Chief Metropolitan Magistrate, and Special Metropolitan Magistrate appointed under section 12 (5) and Benches constituted under section 19, shall be subordinate to the chief Metropolitan Magistrate, who may, from time to time, give special orders consistent with this Code and rules made by the Government under section 16 as to the distribution of business among such Magistrates and Benches.

(4) All Judicial Magistrates including the Chief Judicial Magistrate shall be subordinate to the Sessions Judge and all Metropolitan Magistrates including the Chief Metropolitan Magistrate shall be subordinate to the Metropolitan Sessions Judge.

Subordination of Joint Sessions Judges

²⁷[17A. (1) All Joint Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and the Sessions Judge may, from time to time, make rules or give special orders consistent with this Code as the distribution of business among such joint Sessions Judges.

(2) 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 Joint Sessions Judge and such Judge shall have jurisdiction to deal with any such application.]

D.—Courts of Metropolitan Magistrates

Appointment of Metropolitan Magistrates

18. ²⁸[(1) In every Metropolitan Area, the Chief Metropolitan Magistrate, Additional Chief Metropolitan Magistrate and other Metropolitan Magistrates shall be appointed from among the persons employed in the Bangladesh judicial Service.]

(2) The Government may appoint one or more Additional Chief Metropolitan Magistrates, and such Additional Chief Metropolitan Magistrates shall have all or any of the powers of the Chief Metropolitan Magistrate under this Code or under any other law for the time being in force, as the Government may direct.

²⁹[***]

Benches

19. Any two or more of Metropolitan Magistrates may, subject to the rules made by the Chief Metropolitan Magistrate, sit together as Bench.

Local limits of jurisdiction

20. Every Metropolitan Magistrate shall exercise jurisdiction in all places within ³⁰[a] Metropolitan Area for which he is appointed.

Chief Metropolitan Magistrate

21.(1) The Chief Metropolitan Magistrate shall exercise within the local limits of his jurisdiction all the powers ³¹[conferred on him or on a Metropolitan Magistrate under this Code, or under any law for the time being in force] and may, from time to time, with the previous sanction of the Government, make rules consistent with this Code to regulate-

(a) the conduct and distribution of business and the practice in the Courts of Metropolitan Magistrates;

(b) the constitution of Benches of Metropolitan Magistrates;

(c) the times and places at which such Benches shall sit;

(d) the mode of settling differences of opinion which may arise between Metropolitan Magistrates in session; and

(e) any other matter which could be dealt with by a ³²[Chief Judicial Magistrate] under his general powers of control over the Magistrates subordinate to him.

³³[***]

E.—Justices of the Peace

Justice of the peace for the mafassal

22. ³⁴[The Government] may, by notification in the official Gazette, appoint such persons resident within Bangladesh and not being the subjects of any foreign State as it thinks fit to be Justices of the Peace within and for the local area mentioned in such notification.

Repealed 23 and 24. [Repealed by section 4 of the [Criminal Law Amendment Act, 1923](#) (Act No. XII of 1923).]

Ex-officio Justices of the Peace 25. In virtue of their respective offices, the Judges of the ³⁵[Supreme Court] are Justices of the Peace within and for of the whole of Bangladesh, Sessions Judges, ³⁶[Chief Judicial Magistrate] and Metropolitan Magistrates] are Justices of the Peace within ³⁷[their respective jurisdictions].

F.—Suspension and Removal

Repealed 26 and 27. [Repealed by the Government of India (Adaptation of Indian Laws) Order, 1937.]

CHAPTER III

POWERS OF COURTS

A.—Description of Offences cognizable by each Court

Offences under Penal Code 28. Subject to the other provisions of this Code any offence under the [Penal Code](#) may be tried-

(a) by the High Court Division, or

(b) by the Court of Session, or

(c) by any other Court by which such offence is shown in the eighth column of the second schedule to be triable.

Illustration

A is ³⁸[tried by] the Sessions Court on a charge of culpable homicide. He may be convicted of voluntarily causing hurt, an offence triable by a Magistrate.

Offences under other laws 29.(1) Subject to the other provisions of this Code, any offence under any other law shall, when any Court is mentioned in this behalf in such law, be tried by such Court.

(2) When no Court is so mentioned, it may be tried ³⁹[* * *] subject as

aforesaid by any Court constituted under this Code by which such offence is shown in the eighth column of the second schedule to be triable.

Omitted 29A. [Omitted by the Criminal Law (Extinction of Discriminatory Privileges) Act, 1949 (Act No. II of 1950).]

Jurisdiction in the case of juveniles ⁴⁰[29B. Any offence, other than one punishable with death or transportation for life, committed by any person who at the date when he appears or is brought before the Court is under the age of fifteen years, may be tried by ⁴¹[Chief Judicial Magistrate] ⁴²[or the Chief Metropolitan Magistrate], or by any Magistrate specially empowered by the Government to exercise the powers conferred by ⁴³[or under any law] providing for the custody, trial or punishment of youthful offenders, by any Magistrate empowered by or under such law to exercise all or any of the powers conferred thereby.]

Offences not punishable with death ⁴⁴[29C. Notwithstanding anything contained in section 29, the Government may ⁴⁵[in consultation with the High Court Division]-
(a) invest the ⁴⁶[Chief Metropolitan Magistrate,] ⁴⁷[Chief Judicial Magistrate or any Additional Chief Judicial Magistrate] with power to try as a Magistrate all offences not punishable with death;
(b) invest ⁴⁸[Metropolitan Magistrate or] any Magistrate of the first class with power to try as a Magistrate all offences not punishable with death or with transportation or with imprisonment for a term exceeding ten years.]

Omitted 30. [Omitted by section 2 and Schedule of the [Law Reforms Ordinance, 1978](#) (Ordinance No. XLIX of 1978).]

B.—Sentences which may be passed by courts of various Classes

Sentences which High Court Division and Sessions Judges may pass 31.(1) ⁴⁹[The High Court Division] may pass any sentence authorized by law.
(2) A Sessions Judge or Additional Sessions Judge may pass any sentence authorized by law; but any sentence of death passed by any such Judge shall be subject to confirmation by the High Court Division.

(3) A ⁵⁰[Joint] Sessions Judge may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding ⁵¹[ten] years or of imprisonment for a term exceeding 2 ⁵²[ten] years.

⁵³[***]

Sentences which Magistrates may pass

32.(1) The Courts of Magistrates may pass the following sentences namely:-

(a) Courts ⁵⁴[of Metropolitan Magistrates and] of Magistrates of the first class: Imprisonment for a term not exceeding ⁵⁵[five years], including such solitary confinement as is authorized by law;

Fine not exceeding ⁵⁶[ten thousand taka]; Whipping.

(b) Courts of Magistrates of the second class: Imprisonment for a term not exceeding ⁵⁷[three years], including such solitary confinement as is authorized by law;

Fine not exceeding ⁵⁸[five thousand taka];

(c) Courts of Magistrates of the third class: Imprisonment for a term not exceeding ⁵⁹[two year];

Fine not exceeding ⁶⁰[two thousand taka].

(2) The Court of any Magistrate may pass any lawful sentence, combining any of the sentences which it is authorized by law to pass.

Power of Magistrates to sentence to imprisonment in default of fine

33.(1) The Court of any Magistrate may award such terms of imprisonment in default of payment of fine as is authorized by law in case of such default:

Proviso as to certain cases

Provided that-

(a) the term is not in excess of the Magistrate's powers under this Code;

(b) in any case decided by a Magistrate where imprisonment has been awarded as part of the substantive sentence, the period of imprisonment awarded in default of payment of the fine shall not exceed one-fourth of the period of imprisonment which such Magistrate is competent to inflict as punishment for the offence otherwise than as imprisonment in default of payment of the fine.

(2) The imprisonment awarded under this section may be in addition to a substantive sentence of imprisonment for the maximum term awardable by the Magistrate under section 32.

Higher powers of certain Magistrates

⁶¹[33A. The Court of a Magistrate, specially empowered under section 29C, may pass any sentence authorized by law, except a sentence of death or of transportation or imprisonment for a term exceeding seven years.]

Omitted

34. [Omitted by section 2 and Schedule of the [Law Reforms Ordinance, 1978](#) (Ordinance No. XLIX of 1978).]

Omitted

34A. [Omitted by Schedule of the Criminal Law (Extinction of Discriminatory Privileges) Act, 1949 (Act No. II of 1950).]

**Sentence in cases of conviction of several offences at one trial
Maximum term of punishment**

35.(1) When a person is convicted at one trial of two or more offences, the Court may, subject to the provisions of section 71 of the [Penal Code](#) sentence him, for such offences, to the several punishments prescribed therefor which such Court is competent to inflict; such punishments, when consisting of imprisonment or transportation to commence the one after the expiration of the other in such order as the Court may direct, unless the Court directs that such punishments shall run concurrently.

(2) In the case of consecutive sentences, it shall not be necessary for the Court, by reason only of the aggregate punishment for the several offences being in excess of the punishment which it is competent to inflict on conviction of a single offence, to send the offender for trial before a higher Court:

Provided as follows: -

(a) in no case shall such person be sentenced to imprisonment for a longer period than fourteen years;

(b) if the case is tried by a Magistrate [* * *], the aggregate punishment shall not exceed twice the amount of punishment which he is, in the exercise of his ordinary jurisdiction, competent to inflict.

(3) For the purpose of appeal, the aggregate of consecutive sentences passed under this section in case of convictions for several offences at one trial shall be deemed to be a single sentence.

Deduction of imprisonment in cases where convicts may have been in custody

⁶²[35A.(1) Except in the case of an offence punishable only with death, when any court finds an accused guilty of an offence and, upon conviction, sentences such accused to any term of imprisonment, simple or rigorous, it shall deduct from the sentence of imprisonment, the total period the accused may have been in custody in the meantime, in connection with that offence.

(2) If the total period of custody prior to conviction referred to in subsection (1) is longer than the period of imprisonment to which the accused is sentenced, the accused shall be deemed to have served out the sentence of imprisonment and shall be released at once, if in custody, unless required to be detained in connection with any other offence; and if the accused is also sentenced to pay any fine in addition to such sentence, the fine shall stand remitted.]

C.—Ordinary and Additional Powers

Ordinary powers of Magistrates

36. All ⁶³[Judicial and Executive Magistrates] have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers".

Additional powers conferrable on Magistrates

⁶⁴[37. In addition to his ordinary powers, any Judicial or Executive Magistrate may be invested by the Government or the Chief Judicial Magistrate or the District Magistrate, as the case may be, with any powers specified in the schedule IV:

Provided that, the Government may authorize a District Magistrate to invest any Executive Magistrate subordinate to him with any of its powers specified in the schedule IV:

Provided further that any Judicial Magistrate may be invested with such additional powers in consultation with the High Court Division.]

Control of District Magistrates investing power

38. The power conferred on the District Magistrate by section 37 shall be exercised subject to the control of the Government.

D.—Conferment, Continuance and Cancellation of Powers

Mode of conferring powers

39.(1) In conferring powers under this Code the Government may by order, empower persons specially by name or in virtue of their office or classes of officials generally by their official titles.

(2) Every such order shall take effect from the date on which it is communicated to the person so empowered.

Powers of officers appointed

40. Whenever any person holding an office in the service of Government who has been invested with any powers under this Code throughout any local area is appointed to an equal or higher office of the same nature, within a like local area ⁶⁵[***], he shall, unless the Government otherwise directs, or has otherwise directed, exercise the same powers in the local area in which he is so appointed.

Withdrawal of powers

⁶⁶[41.(1)The Government may withdraw all or any of the powers conferred under this Code on any person by it or by any officer subordinate to it:

Provided that where the conferring of a power is, under this code, required to be made in consultation with the High Court Division, the withdrawal thereof shall be made in consultation with that Court.

(2) Any powers conferred by the Chief Judicial Magistrate or the District Magistrate may be withdrawn by the chief Judicial Magistrate or the District Magistrate respectively.]

PART III

GENERAL PROVISIONS

CHAPTER IV

OF AID AND INFORMATION TO THE MAGISTRATES, THE POLICE AND PERSONS MAKING ARRESTS

Public when to assist

42. Every person is bound to assist ⁶⁷[any Magistrate whether Judicial or Executive] or police officer reasonably demanding his aid,-

(a) in the taking or preventing the escape of any other person whom such Magistrate or police-officer is authorized to arrest;

(b) in the prevention or suppression of a breach of the peace, or in the prevention of any injury attempted to be committed to any railway, canal, telegraph or public property.

Aid to person, other than police-officer, executing warrant

43. When a warrant is directed to a person other than a police-officer, any other person may aid in the execution of such warrant, if the person to whom the warrant is directed be near at hand and acting in the execution of the warrant.

Public to give information of certain offences

44.(1) Every person, aware of the commission of, or of the intention of any other person to commit any offence punishable under any of the following sections of the [Penal Code](#) (namely), 121, 121A, 122, 123, 124, 124A, 125, 126, 130, 143, 144, 145, 147, 148, 302, 303, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 456, 457, 458, 459 and 460, shall, in the absence of reasonable excuse, the burden of proving which shall lie upon the person so aware, forthwith give information to the nearest Magistrate or police-officer of such commission or intention.

(2) For the purposes of this section the term "offence" includes any act committed at any place out of Bangladesh which would constitute an offence if committed in Bangladesh.

Village-headmen, accountants, landholders and others bound to report certain matters

45.(1) Every village-headman, village-accountant, village watchman, village police-officer, owner or occupier of land, and the agent of any such owner or occupier in charge of the management of that land, and every officer employed in the collection of revenue or rent of land on the part of the Government or the Court of Wards, shall forthwith communicate to the nearest Magistrate or to the officer in charge of the nearest police-station whichever is the nearer, any information which he may possess respecting-

(a) the permanent or temporary residence of any notorious receiver or vendor of stolen property in any village of which he is headman , accountant, watchman or police-officer, or in which he owns or occupies land, or is agent, or collects revenue or rent;

(b) the resort to any place within, or the passage through, such village of any person whom he knows, or reasonably suspects to be a thug, robber, escaped convict or proclaimed offender;

(c) the commission of, or intention to commit, in or near such village any non-bailable offence or any offence punishable under section 143, 144, 145, 147, or 148 of the [Penal Code](#);

(d) the occurrence in or near such village of any sudden or unnatural death or of any death under suspicious circumstances; or the discovery in or near such village of any corpse or part of a corpse, in circumstances which lead to a reasonable suspicion that such a death has occurred or the disappearance from such village of any person in circumstances which lead to a reasonable suspicion that a non-bailable offence has been committed in respect of such person;

(e) the commission of, or intention to commit, at any place out of Bangladesh near such village any act which, if committed in Bangladesh, would be an offence punishable under any of the following sections of the [Penal Code](#), namely, 231, 232, 233, 234, 235, 236, 237, 238, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459, 460, 489A, 489B, 489C, and 489D;

(f) any matter likely to affect the maintenance of order or the prevention

of crime or the safety of person or property respecting which the District Magistrate, by general or special order made with the previous sanction of the Government, has directed him to communicate information.

(2) In this section-

(i) "village" includes village-lands; and

(ii) the expression "proclaimed offender" includes any person proclaimed as an offender by any Court or authority established or continued by the Government in any part of Bangladesh, in respect of any act which if committed in Bangladesh, would be punishable under any of the following sections of the [Penal Code](#), namely, 302, 304, 382, 392, 393, 394, 395, 396, 397, 398, 399, 402, 435, 436, 449, 450, 457, 458, 459 and 460.

Appointment of village-headman by District Magistrate ⁶⁸[*] in certain cases for purposes of this section**

(3) Subject to rules in this behalf to be made by the Government, the District Magistrate ⁶⁹[***] may from time to time appoint one or more persons with his or their consent to perform the duties of a village-headman under this section whether a village-headman has or has not been appointed for that village under any other law.

CHAPTER V

OF ARREST, ESCAPE AND RETAKING

A.—Arrest generally

Arrest how made

46.(1) In making an arrest the police-officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Resisting endeavour to arrest

(2) If such person forcibly resists the endeavor to arrest him, or attempts to evade the arrest, such police-officer or other person may use all means necessary to effect the arrest.

(3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with ⁷⁰[transportation for life].

Search of place entered by person sought to be arrested

47. If any person acting under a warrant of arrest, or any police-officer having authority to arrest, has reason to believe that the person to be arrested has entered into, or is within, any place, the person residing in, or being in charge of, such place shall, on demand of such person acting as aforesaid or such police-officer, allow him free ingress thereto, and afford all reasonable facilities for a search therein.

**Procedure where
ingress not obtainable**

48. If ingress to such place cannot be obtained under section 47 it shall be lawful in any case for a person acting under a warrant and in any case in which a warrant may issue, but cannot be obtained without affording the person to be arrested an opportunity of escape, for a police-officer to enter such place and search therein, and in order to effect an entrance into such place, to break open any outer or inner door or window of any house or place, whether that of the person to be arrested or of any other person, if after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance:

Breaking open zanana

Provided that, if any such place is an apartment in the actual occupancy of a woman (not being the person to be arrested) who, according to custom, does not appear in public such person or police-officer shall, before entering such apartment, give notice to such woman that she is at liberty to withdraw and shall afford her every reasonable facility for withdrawing, and may then break open the apartment and enter it.

**Power to break open
doors and windows
for purposes of
liberation**

49. Any police-officer or other person authorized to make an arrest may break open any outer or inner door or window of any house or place in order to liberate himself or any other person who, having lawfully entered for the purpose of making an arrest, is detained therein.

**No unnecessary
restraint**

50. The person arrested shall not be subjected to more restraint than is necessary to prevent his escape.

**Search of arrested
persons**

51. Whenever a person is arrested by a police-officer under a warrant which does not provide for the taking of bail, or under a warrant which provides for the taking of bail but the person arrested cannot furnish bail, and

Whenever a person is arrested without warrant, or by a private person under a warrant, and cannot legally be admitted to bail, or is unable to furnish bail,

the officer making the arrest or, when the arrest is made by a private person, the police-officer to whom he makes over the person arrested, may search such person, and place in safe custody all articles, other than necessary wearing-apparel, found upon him.

Mode of searching women

52. Whenever it is necessary to cause a woman to be searched, the search shall be made by another woman, with strict regard to decency.

Power to seize offensive weapons

53. The officer or other person making any arrest under this Code may take from the person arrested any offensive weapons which he has about his person, and shall deliver all weapons so taken to the Court or officer before which or whom the officer or person making the arrest is required by this Code to produce the person arrested.

B.—Arrest without Warrant

When police may arrest without warrant

54.(1) Any police-officer may, without an order from a Magistrate and without a warrant, arrest-

firstly , any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received, or a reasonable suspicion exists of his having been so concerned;

secondly , any person having in his possession without lawful excuse, the burden of proving which excuse shall lie on such person, any implement of house breaking;

thirdly , any person who has been proclaimed as an offender either under this Code or by order of the Government;

fourthly, any person in whose possession anything is found which may reasonably be suspected to be stolen property and who may reasonably be suspected of having committed an offence with reference to such thing;

fifthly, any person who obstructs a police-officer while in the execution of his duty, or who has escaped, or attempts to escape, from lawful custody;

sixthly, any person reasonably suspected of being a deserter from the armed forces of Bangladesh ⁷¹[* * *];

seventhly , any person who has been concerned in, or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in, any act committed at any place out of Bangladesh, which, if committed in Bangladesh, would have been punishable as an offence, and for which he is, under any law relating to extradition or under the Fugitive Offenders Act, 1881, or otherwise, liable to be apprehended or detained in custody in Bangladesh;

eighthly , any released convict committing a breach of any rule made under section 565, sub-section (3);

ninthly, any person for whose arrest a requisition has been received from another police-officer, provided that the requisition specifies the person to be arrested and the offence or other cause for which the arrest is to be made and it appears therefrom that the person might lawfully be arrested without a warrant by the officer who issued the requisition.

**Arrest of vagabonds,
habitual robbers, etc**

55.(1) Any officer in Charge of a police-station may, in like manner, arrest or cause to be arrested-

(a) any person found taking precautions to conceal his presence within the limits of such station, under circumstances which afford reason to believe that he is taking such precautions with a view committing a cognizable offence; or

(b) any person within the limits of such station who has no ostensible means of subsistence, or who cannot give a satisfactory account of himself; or

(c) any person who is by repute an habitual robber, house-breaker or thief, or an habitual receiver of stolen property knowing it to be stolen, or who by repute habitually commits extortion or in order to the committing of extortion habitually puts or attempts to put persons in fear of injury.

**Procedure when
police-officer deposes
subordinate to arrest
without warrant**

56.(1) When any officer in charge of a police-station or any police-officer making an investigation under Chapter XIV requires any officer subordinate to him to arrest without a warrant (otherwise than in his presence) any person who may lawfully be arrested without a warrant, he shall deliver to the officer required to make the arrest an order in writing, specifying the person to be arrested and the offence or other cause for which the arrest is to be made. The officer so required shall, before making the arrest, notify to the person to be arrested the substance of the order and, if so required by such person, shall show him the order.

**Refusal to give name
and residence**

57.(1) When any person who in the presence of a police-officer has committed or has been accused of committing a non-cognizable offence refuses, on demand of such officer, to give his name and residence or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name or residence may be ascertained.

(2) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required:

Provided that, if such person is not resident in Bangladesh, the bond shall be secured by a surety or sureties resident in Bangladesh.

(3) Should the true name and residence of such person not be ascertained

within twenty-four hours from the time of arrest or should he fail to execute the bond, or, if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

Pursuit of offenders into other jurisdictions

58. A police-officer may, for the purpose of arresting without warrant any person whom he is authorized to arrest under this Chapter, pursue such person into any place in Bangladesh.

Arrest by private persons and procedure on such arrest

59.(1) Any private person may arrest any person who in his view commits a non-bailable and cognizable offence, or any proclaimed offender, and without unnecessary delay, shall make over any person so arrested to a police-officer, or, in the absence of a police-officer, take such person or cause him to be taken in custody to the nearest police-station.

(2) If there is reason to believe that such person comes under the provisions of section 54, a police-officer shall re-arrest him.

(3) If there is reason to believe that he has committed a non-cognizable offence, and he refuses on the demand of a police-officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he shall be dealt with under the provisions of section 57. If there is no sufficient reason to believe that he has committed any offence, he shall be at once released.

Person arrested to be taken before Magistrate or officer in charge of police-station

60. A police-officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police-station.

Person arrested not to be detained more than twenty-four hours

61. No police-officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court.

Police to report apprehensions

62. Officers in charge of police-stations shall report ⁷²[in ⁷³[a] Metropolitan Area, to the Chief Metropolitan Magistrate, and in other areas, to the District Magistrate, ⁷⁴[and also to the Chief Judicial

Magistrate] the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise.

Discharge of person apprehended

63. No person who has been arrested by a police-officer shall be discharged except on his own bond, or on bail, or under the special order of a Magistrate.

Offence committed in Magistrate's presence

64. When any offence is committed in the presence of a Magistrate ⁷⁵[whether Executive or Judicial] within the local limits of his jurisdiction, he may himself arrest or order any person to arrest the offender, and may thereupon, subject to the provisions herein contained as to bail commit the offender to custody.

Arrest by or in presence of Magistrate

65. Any Magistrate ⁷⁶[whether Executive or Judicial] may at any time arrest or direct the arrest, in his presence, within the local limits of his jurisdiction, of any person for whose arrest he is competent at the time and in the circumstances to issue a warrant.

Power, on escape, to pursue and retake

66. If a person in lawful custody escapes or is rescued, the person from whose custody he escaped or was rescued may immediately pursue and arrest him in any place in Bangladesh.

Provisions of sections 47, 48 and 49 to apply to arrest under section 66

67. The provisions of sections 47, 48 and 49 shall apply to arrests under section 66, although the person making any such arrest is not acting under a warrant and is not a police-officer having authority to arrest.

CHAPTER VI

OF PROCESSES TO COMPEL APPEARANCE

A.—Summons

Form of summons

68.(1) Every summons issued by a Court under this Code shall be in writing in duplicate, signed and sealed by the presiding officer of such Court, or by such other officer as the ⁷⁷[Supreme Court] may, from time

to time, by rule, direct.

Summons by whom served

(2) Such summons shall be served by a police-officer, or subject to such rules as the Government may prescribe in this behalf, by an officer of the Court issuing it or other public servant.

Summons how served

69.(1) The summons shall, if practicable, be served personally on the person summoned, by delivering or tendering to him one of the duplicates of the summons.

Signature of receipt for summons

(2) Every person on whom a summons is so served shall if so required by the serving officer, sign a receipt therefor on the back of the other duplicate.

(3) Service of a summons on an incorporated company or other body corporate may be effected by serving it on the secretary, local manager or other principal officer of the corporation or by registered post letter addressed to the chief officer of the corporation in Bangladesh. In such case the service shall be deemed to have been effected when the letter would arrive in ordinary course of post.

Service when person summoned cannot be found

70. Where the person summoned cannot by the exercise of due diligence be found, the summons may be served by leaving one of the duplicates for him with some adult male member of his family, and the person with whom the summons is so left shall, if so required by the serving officer, sign a receipt therefore on the back of the other duplicate.

Procedure when service cannot be effected as before provided

71. If service in the manner mentioned in sections 69 and 70 cannot by the exercise of due diligence be effected, the serving officer shall affix one of the duplicates of the summons to some conspicuous part of the house or homestead in which the person summoned ordinarily resides; and thereupon the summons shall be deemed to have been duly served.

Service on servant of Republic

72.(1) Where the person summoned is in the active service of the ⁷⁸[Republic], the Court issuing the summons shall ordinarily send it in

duplicate to the head of the office in which such person is employed; and such head shall thereupon cause the summons to be served in manner provided by section 69, and shall return it to the Court under his signature with the endorsement required by that section.

(2) Such signature shall be evidence of due service.

**Service of summons
outside local limits**

73. When a Court desires that a summons issued by it shall be served at any place outside the local limits of its jurisdiction, it shall ordinarily send such summons in duplicate to a Magistrate within the local limits of whose jurisdiction the person summoned resides or is, to be there served.

**Proof of service in
such cases and when
serving officer not
present**

74.(1) When a summons issued by a Court is served outside the local limits of its jurisdiction, and in any case where the officer who has served a summons is not present at the hearing of the case, an affidavit, purporting to be made before a Magistrate, that such summons has been served, and a duplicate of the summons purporting to be endorsed (in manner provided by section 69 or section 70) by the person to whom it was delivered or tendered or with whom it was left, shall be admissible in evidence, and the statements made therein shall be deemed to be correct unless and until the contrary is proved.

(2) The affidavit mentioned in this section may be attached to the duplicate of the summons and returned to the Court.

B.—Warrant of Arrest

**Form of warrant of
arrest Continuance of
warrant of arrest**

75.(1) Every warrant of arrest issued by a Court under this Code shall be in writing, signed by the presiding officer, or in the case of a Bench of Magistrates, by any member of such Bench, and shall bear the seal of the Court.

(2) Every such warrant shall remain in force until it is cancelled by the Court which issued it, or until it is executed.

**Court may direct
security to be taken**

76.(1) Any Court issuing a warrant for the arrest of any person may in its discretion direct by endorsement on the warrant that, if such person executes a bond with sufficient sureties for his attendance before the Court at a specified time and thereafter until otherwise directed by the Court, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(2) The endorsement shall state-

- (a) the number of sureties;
- (b) the amount in which they and the person for whose arrest the warrant is issued, are to be respectively bound; and
- (c) the time at which he is to attend before the Court.

Recognizance to be forwarded

(3) Whenever security is taken under this section the officer to whom the warrant is directed shall forward the bond to the Court.

Warrants to whom directed

77.(1) A warrant of arrest shall ordinarily be directed to one or more police-officers, ⁷⁹[and, when issued by a Metropolitan Magistrate, shall always be so directed; but any other Court] issuing such a warrant may, if its immediate execution is necessary and no police-officer is immediately available, direct it to any other person or persons; and such person or persons shall execute the same.

Warrants to several persons

(2) When a warrant is directed to more officers or persons than one, it may be executed by all, or by any one or more, of them.

Warrant may be directed to landholders, etc

78.(1) ⁸⁰[Magistrate of the first class] may direct a warrant to any landholder, farmer or manager of land within his ⁸¹[local 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.

(2) Such landholder, farmer or manager shall acknowledge in writing the receipt of the warrant, and shall execute it if the person for whose arrest it was issued, is in, or enters on, his land or farm, or the land under his charge.

(3) When the person against whom such warrant is issued is arrested, he shall be made over with the warrant to the nearest police-officer, who shall cause him to be taken before a Magistrate having jurisdiction in the case, unless security is taken under section 76.

Warrant directed to police-officer

79. A warrant directed to any police-officer may also be executed by any other police-officer whose name is endorsed upon the warrant by the officer to whom it is directed or endorsed.

**Notification of
substance of warrant**

80. The police-officer or other person executing a warrant of arrest shall notify the substance thereof to the person to be arrested, and, if so require, shall show him the warrant.

**Person arrested to be
brought before Court
without delay**

81. The police-officer or other person executing a warrant of arrest shall (subject to the provisions of section 76 as to security) without unnecessary delay bring the person arrested before the Court before which he is required by law to produce such person.

**Where warrant may
be executed**

82. A warrant of arrest may be executed at any place in Bangladesh.