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PART I

Acts, Ordinances, President's Orders and Regulations

SENATE SECRETARIAT

Islamabad, the 3rd July, 1997

No. F. 9(34)/97-Legis.—The following Act of Majlis-e-Shoora (Parliament) received the assent of the President on the 3rd July, 1997, is hereby published for general information:—

ACT No. XXIII OF 1997

An Act further to amend the Code of Criminal Procedure, 1898, and the Law Reforms Ordinance, 1972

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (Act V of 1898), and the Law Reforms Ordinance, 1972 (XII of 1972), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. Short title and commencement.—(1) This Act may be called the Legal Reforms Act, 1997.

(1489)

Price : Rs. 05.00

[1016(97) Ex. Gaz.]

- (2) It shall come into force at once.

2. **Amendment of Act V of 1898.**—The following amendments shall be made in the Code of Criminal Procedure, 1898 (Act V of 1898), namely :—

- (1) in section 528, in sub-section (IC), the Explanation shall be omitted; and
- (2) after section 528, amended as aforesaid, the following new section shall be inserted, namely :—

“528A. *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.”.

3. **Amendment of Ordinance XII of 1972.**—The following amendments shall be made in the Law Reforms Ordinance, 1972 (XII of 1972), namely :—

In the Schedule, in the provisions relating to the amendments in the Code of Criminal Procedure, 1898 (Act V of 1898),—

- (1) in item 2, under the heading “Executive Magistrate”, after serial No. 4 and the entry relating thereto, the following new serial numbers and the entries relating thereto shall be added, namely :—

“(5) Magistrates of the first class.

(6) Magistrates of the second class.

(7) Magistrates of the third class.” ;

- (2) in item 9, in sub-item (i), in the second paragraph, for the figure “13” the figures and comma “12, 13” shall be substituted ;
- (3) for item 11 and entry relating thereto the following shall be substituted, namely :—

“11. In section 28, in clause (c), for the full stop at the end a colon

shall be substituted, and thereafter the following proviso shall be added, namely :—

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

- (4) after item 11, substituted as aforesaid, the following new item and the entries relating thereto shall be inserted, namely :—

"11A. In section 29, in sub-section (2), for the full stop at the end a colon shall be substituted 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." ;

- (5) for item 13 and the entry relating thereto the following shall be substituted, namely :—

"13. In section 30, for the words, figure and comma "section 29, invest the District Magistrate or any" the words, figures and comma "sections 28 and 29, invest any Judicial" shall be substituted." ;

- (6) in item 15, sub-item (ii) and the entry relating thereto shall be omitted ;
- (7) item 16 and the entry relating thereto shall be omitted ;
- (8) item 32A and the entry relating thereto shall be omitted ;
- (9) in item 41, sub-item (i) and the entry relating thereto shall be omitted ;
- (10) in item 60, and item (i) and the entry relating thereto shall be omitted ;
- (11) in item 63,—
- (a) sub-item (i) shall be omitted ; and

(b) after sub-item (j), omitted as aforesaid, the following new sub-item shall be inserted, namely :—

(iA) in sub-section (1), the following explanation shall be added at the end, namely :—

“Explanation.—For the purpose of this section, in the cases triable by the Executive Magistrates, the expression “nearest Magistrate” means the Executive Magistrate and in all other cases the Judicial Magistrates.” ;

(12) item 68 and the entry relating thereto shall be omitted ;

(13) in item 70,—

(a) sub-item (i) and the entry relating thereto shall be omitted ;
and

(b) for sub-item (ii) and the entry relating thereto the following shall be substituted, namely :—

“(ii) for sub-section (2) the following shall be substituted, namely:—

“(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 send to the Court of Session for trial :

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

(14) in item 71, for the words “to the Sessions Judge” the words and commas “in the case of Judicial Magistrate, to the Sessions Judge, and in the case of Executive Magistrate, to the District Magistrate” shall be substituted ;

(15) for item 72 and the entries relating thereto the following shall be substituted, namely :—

“72. In section 192,—

(i) in sub-section (1), for the full stop at the end a colon shall

be substituted, and thereafter the following proviso shall be added, namely :—

“Provided that if the offence is triable by a Judicial Magistrate the case shall be sent to the Court of Session for transfer to such Magistrate.”;

- (ii) for sub-section (2) the following shall be substituted, namely:—

“(2) Any District Magistrate may empower any Executive Magistrate subordinate 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.” ; and

- (iii) after sub-section (2), substituted as aforesaid, the following section (3) shall be added, namely :—

“(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 the case accordingly.” ;

- (16) for item 96 and the entry relating thereto the following shall be substituted, namely :—

“96. In section 249, for the words “District Magistrate” the words “Sessions Judge in the case of Judicial Magistrate and District Magistrate in the case of Executive Magistrate” shall be substituted.” ;

- (17) item 106 and the entries relating thereto shall be omitted ;

- (18) item 138 and the entry relating thereto shall be omitted ;

- (19) in item 173, in sub-item (i), the Explanation shall be omitted ;

- (20) in item 185, sub-item (i) and the entry relating thereto shall be omitted ;

- (21) item 186 and the entry relating thereto shall be omitted ;
- (22) item 188 and the entry relating thereto shall be omitted ; and
- (23) in item 211, sub-items (iii), (iv) and (v) and the entries relating thereto shall be omitted.

4. **Repeal.**—The Legal Reforms Ordinance, 1997 (XL of 1997), is hereby repealed.

ABDUL QAYYUM KHAN,
Secretary.