

E.—Justices of the Peace

22. ¹[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.

Justices of the
Peace for the
mafassal

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 [*Repealed by section 4 of the Criminal Law Amendment Act, 1923 (Act No. XII of 1923).*]

25. In virtue of their respective offices, the Judges of the ²[Supreme Court] are Justices of the Peace within and for of the whole of Bangladesh, Sessions Judges ³[, District Magistrates and Metropolitan Magistrates] are Justices of the Peace within ⁴[their respective jurisdictions].

Ex-officio
Justices of the
Peace

F.—Suspension and Removal

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 [*Repealed by the Government of India (Adaptation of Indian Laws) Order, 1937.*]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

28. Subject to the other provisions of this Code any offence

Offences under
Penal Code

¹ The words "The Government" were substituted, for the words and commas "A Provincial Government, so far as regards the territories subject to it, administration," by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words "Supreme Court" were substituted, for the words "High Courts" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The comma and words ", District Magistrates and Metropolitan Magistrates" were substituted, for the words "and District Magistrate" by section 2 and Schedule of the Code of Criminal Procedure (Amendment), 1976 (Ordinance No. LXXXVI of 1976).

⁴ The words "their respective jurisdictions" were substituted, for the words "and for the whole of the territories administered by the Provincial Government under which they are serving" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

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 ¹[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 ²[* * *] 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.

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

Jurisdiction in the case of juveniles

³[**29B.** Any offence, other than one punishable with death or ⁴[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 tried⁵ by a District Magistrate

¹ The words "tried by" were substituted, for the words "committed to" by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

² The words "by the High Court or" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ Section 29B was inserted by section 6 of the Code of Criminal Procedure (Amendment) Act, 1923 (Act No. XVIII of 1923).

⁴ The words "transportation for life" construed as a reference to "imprisonment for life" by section 3 of the Penal Code (Amendment) Ordinance, 1985 (Ordinance No. XLI of 1985).

⁵ This section shall cease to apply to the whole of the district of Dhaka, see section 78(3) of the Children Act, 1974 (Act No. XXXIX of 1974).

¹[or the Chief Metropolitan Magistrate], or by any Magistrate specially empowered by the Government to exercise the powers conferred by ²[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.]

³[**29C.** Notwithstanding anything contained in section 29, the Government may—

Offences not punishable with death

- (a) invest the ⁴[Chief Metropolitan Magistrate,] District Magistrate or any Additional District Magistrate with power to try as a Magistrate all offences not punishable with death;
- (b) invest 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.]

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

31.(1) ⁵[The High Court Division] may pass any sentence authorized by law.

Sentences which High Court Division and Sessions Judges may pass

¹ The words "or the Chief Metropolitan Magistrate" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

² The words "or under any law" were substituted, for the words and comma "section 8, sub-section (1), of the Reformatory Schools Act, 1897, or, in any area in which the said Act has been wholly or in part repealed by any other law" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ Section "29C" was substituted, for section "29C" by section 3 of the Code of Criminal Procedure (Third Amendment) Ordinance, 1982 (Ordinance No. LX of 1982).

⁴ The words and comma "Chief Metropolitan Magistrate," were inserted by section 2 of the Code of Criminal Procedure (Amendment) Ordinance, 1983 (Ordinance No. IV of 1983).

⁵ The words "The High Court Division" were substituted, for the words "A High Court" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(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) An Assistant Sessions Judge may pass any sentence authorized by law, except a sentence of death or of transportation for a term exceeding ¹[ten] years or of imprisonment for a term exceeding ²[ten] years.

³[(4) An Assistant Sessions Judge deemed to have been appointed as Additional Sessions Judge under the proviso to sub-section (3) of section 9 may pass any sentence authorized by law except a sentence of death.]

Sentences
which
Magistrates may
pass

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

- (a) Courts ⁴[of Metropolitan Magistrates and] of Magistrates of the first class: { Imprisonment for a term not exceeding ⁵[five years], including such solitary confinement as is authorized by law; Fine not exceeding ⁶[ten thousand taka]; Whipping.

¹ The word "ten" was substituted, for the word "seven" by section 5 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

² The word "ten" was substituted, for the word "seven" by section 5 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

³ Sub-section (4) was added by section 5 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

⁴ The words "of Metropolitan Magistrates and" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

⁵ The words "five years" were substituted, for the words "three years" by section 6 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

⁶ The words "ten thousand taka" were substituted, for the words "five thousand taka" by section 6 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

- (b) Courts of Magistrates of the second class: { Imprisonment for a term not exceeding ¹[three years], including such solitary confinement as is authorized by law; Fine not exceeding ²[five thousand taka];
- (c) Courts of Magistrates of the third class: { Imprisonment for a term not exceeding ³[two year]; Fine not exceeding ⁴[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.

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:

Power of Magistrates to sentence to imprisonment in default of fine

Provided that-

Proviso as to certain cases

- (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.

¹ The words "three years" were substituted, for the words "two years" by section 6 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

² The words "five thousand taka" were substituted, for the words "two thousand taka" by section 6 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

³ The words "two years" were substituted, for the words "one year" by section 6 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

⁴ The words "two thousand taka" were substituted, for the words "one thousand taka" by section 6 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

(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

¹[**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.]

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

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

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:

Maximum term
of punishment

Provided as follows:—

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

¹ Section 33A was inserted by section 7 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

- (b) if the case is tried by a Magistrate ¹[* * *], 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.

²[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.

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

(2) If the total period of custody prior to conviction referred to in sub-section (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

36. All District Magistrates, Sub-divisional Magistrates and Magistrates of the first, second and third classes, have the powers hereinafter respectively conferred upon them and specified in the third schedule. Such powers are called their "ordinary powers".

Ordinary powers of Magistrates

¹ The brackets, words and figure "(other than a Magistrate acting under section 34)" were omitted by section 2 and Schedule of the Law Reforms Ordinance, 1978 (Ordinance No. XLIX of 1978).

² Section 35A was substituted, for section 35A by section 2 of the Code of Criminal Procedure (Amendment) Act, 2003 (Act No. XIX of 2003).

Additional powers conferrable on Magistrates

37. In addition to his ordinary powers, any Sub-divisional Magistrate or any Magistrate of the first, second or third class may be invested by the Government or the District Magistrate, as the case may be, with any powers specified in the fourth schedule as powers with which he may be invested by the Government or the District Magistrate.

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 area¹ [***], 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.

Powers may be cancelled

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.

(2) Any powers conferred by the District Magistrate may be withdrawn by the District Magistrate.

¹ The words "under the same Provincial Government" were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).