

"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

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

- I. — Courts of Session:
- ²II. — Metropolitan Magistrates:]
- III. — Magistrates of the first class:
- IV. — Magistrates of the second class:
- V. — Magistrates of the third class.

¹ 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).

² Item II was inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

B.—Territorial Divisions

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.

Sessions divisions and districts

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

Power to alter divisions and districts

(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.

Existing divisions and districts maintained till altered

¹[(4)²[A] Metropolitan Area shall, for the purposes of this Code, be deemed to be a sessions division.]

8.(1) The Government may divide any district ³[outside ⁴[a] Metropolitan Area] into sub-divisions, or make any portion of any such district a sub-division, and may alter the limits of any sub-division.

Power to divide districts into sub-divisions

(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.

Existing sub-divisions maintained

C.—Courts and Offices

9.(1) The Government shall establish a Court of Session for every sessions division, and appoint a judge of such Court

Court of Session

¹ Sub-section (4) was added by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

² The letter "A" was substituted, for the words "the Dacca" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

³ The words "outside the Dacca Metropolitan Area" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

⁴ The letter "a" was substituted, for the words "the Dacca" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

¹]; and the Court of Session for ²[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 sitting; 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 ³[:

Provided that where in a district, the District Magistrate, Additional District Magistrate or any Magistrate of the first class is specially empowered under section 29C to try any offence, all Assistant Sessions Judges of the sessions division within which the district is situate shall be deemed to have been appointed as Additional Sessions Judges of that division.]

(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.

¹ The semicolon and words "; and the Court of Session for the Dhaka Metropolitan Area shall be called the Metropolitan Court of Session" were added by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

² The letter "a" was substituted, for the words "the Dacca" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

³ The colon was substituted for the full-stop at the end of sub-section (3) and thereafter the proviso was added by section 3 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1982 (Ordinance No. XXIV of 1982).

10.(1) In every district ¹[outside ²[a] Metropolitan Area] the Government shall appoint a Magistrate of the first class, who shall be called the District Magistrate.

District
Magistrate

(2) The Government may appoint any Magistrate of the first class to be an Additional District Magistrate ³[or Joint District Magistrate] and such Additional District Magistrate ⁴[or Joint 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) For the purposes of sections 192, sub-section (1), 407, sub-section (2) and 528, sub-section (2) and (3), such Additional District Magistrate ⁵[or Joint District Magistrate] shall be deemed to be subordinate to the District Magistrate.

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

Officers
temporarily
succeeding to
vacancies in
office of District
Magistrate

12.(1) The Government may appoint as many persons as it thinks fit, besides the District Magistrate, to be Magistrates of

Subordinate
Magistrates

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

² The letter "a" was substituted, for the words "the Dacca" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

³ The words "or Joint District Magistrate" were inserted by section 2 of the Code of Criminal Procedure (Amendment) Ordinance, 1975 (Ordinance No. XLII of 1975).

⁴ The words "or Joint District Magistrate" were inserted by section 2 of the Code of Criminal Procedure (Amendment) Ordinance, 1975 (Ordinance No. XLII of 1975).

⁵ The words "or Joint District Magistrate" were inserted by section 2 of the Code of Criminal Procedure (Amendment) Ordinance, 1975 (Ordinance No. XLII of 1975).

the first, second or third class in any district ¹[outside ²[a] Metropolitan area] and the Government or the District Magistrate, subject to the control of the Government may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code.

Local limits of their jurisdiction

(2) Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district.

Power to put Magistrate in charge of Sub-division

13.(1) The Government may place any Magistrate of the first or second class in charge of a sub-division, and relieve him of the charge as occasion requires.

(2) Such Magistrates shall be called Sub-divisional Magistrates.

Delegation of powers to District Magistrate

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

Upazila Magistrate

³[**13A.**(1) The Government may place any Magistrate of the first or second class in a Upazila and such Magistrate shall be called the Upazila Magistrate.

(2) A Upazila Magistrate shall have all the powers of a Sub-divisional Magistrate under this Code.]

Special Magistrates

14.(1) The Government may confer upon any person all or any of the powers conferred or conferrable by or under this Code on a Magistrate of the first, second or third class in respect to particular cases or to a particular class or particular classes of

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

² The letter "a" was substituted, for the words "the Dacca" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

³ Section 13A was substituted, for section 13A by section 2 of the Code of Criminal Procedure (Second Amendment) Ordinance, 1983 (Ordinance No. XXXVII of 1983).

cases, or in regard to cases generally in any local area ¹[outside ²[a] Metropolitan Area].

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

(3) The Government may delegate, with such limitations as it thinks fit, to any officer under its control the powers conferred by sub-section (1).

(4) No powers shall be conferred under this section on any police-officer below the grade of Assistant District Superintendent, and no powers shall be conferred on a police-officer except so far as may be necessary for preserving the peace, preventing crime and detecting, apprehending and detaining offenders in order to their being brought 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.

15.(1) The Government may direct any two or more Magistrates in any place ³[outside ⁴[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.

Benches of
Magistrates

¹ The words "outside the Dacca Metropolitan Area" were added by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

² The letter "a" was substituted, for the words "the Dacca" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

³ The words "outside the Dacca Metropolitan Area" were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

⁴ The letter "a" was substituted, for the words "the Dacca" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

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 District 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 Magistrates
and Benches to
district
Magistrate

17.(1) All Magistrates appointed under sections 12, 13 and 14, and all Benches constituted under section 15, shall be subordinate to the District Magistrate and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches; and

To Sub-
divisional
Magistrate

(2) Every Magistrate (other than a Sub-divisional Magistrate) and every Bench exercising powers in a sub-division shall also be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate.

Subordination of
Assistant
Sessions Judges
to Sessions
Judge

(3) All Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and he may, from time to time, make rules consistent with this Code as to the distribution of business among such, Assistant Sessions Judges.

(4) 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

Assistant Sessions Judge or, if there be no Additional or Assistant Judge, by the District Magistrate, and such Judge or Magistrate shall have jurisdiction to deal with any such application.

(5) Neither the District Magistrate nor the Magistrates or Benches appointed or constituted under sections 12, 13, 14 and 15 shall be subordinate to the Sessions Judge, except to the extent and in the manner hereinafter expressly provided.

D.—Courts of¹[Metropolitan] Magistrates

²[18.(1) In ³[a] Metropolitan Area, the Government shall, for the purposes of this Code, appoint a Chief Metropolitan Magistrate and such other Metropolitan Magistrates as it may deem fit.

Appointment
of Metropolitan
Magistrates

(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.

(3) The Government may confer upon any person all or any of the powers of a Metropolitan Magistrate under this Code in respect to particular cases or class of cases or in regard to cases generally in ⁴[a] Metropolitan Area or in any part thereof.

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

Benches

¹ The word "Metropolitan" was substituted, for the word "Presidency" by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

² Sections 18, 19, 20 and 21 were inserted by section 2 and Schedule of the Code of Criminal Procedure (Amendment) Ordinance, 1976 (Ordinance No. LXXXVI of 1976).

³ The letter "a" was substituted, for the words "the Dacca" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

⁴ The letter "a" was substituted, for the words "the Dacca" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

Local limits of jurisdiction

20. Every Metropolitan Magistrate shall exercise jurisdiction in all places within ¹[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 ²[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 District Magistrate under his general powers of control over the Magistrates subordinate to him.

(2) For the purposes of this Code, all Metropolitan Magistrates, including the Additional Chief Metropolitan Magistrates, and Bench of such Magistrates shall be subordinate to the Chief Metropolitan Magistrate; who may, from time to time, make rules or give special orders consistent with this Code, as to the distribution of business among such Magistrates.]

¹ The letter "a" was substituted, for the words "the Dacca" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

² The words and comma "conferred on him or on a Metropolitan Magistrate under this Code, or under any law for the time being in force" were substituted, for the words "conferred on him by this Code" by section 2 of the Code of Criminal Procedure (Amendment) Act, 1980 (Act No. IV of 1980).

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).