

A

Bill

further to amend the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (V of 1898), in its application to the Islamabad Capital Territory, for the purposes hereinafter appearing;

It is hereby enacted as follows: -

1. Short title and commencement.- (1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 2022.

(2) It shall come into force at once.

2. Amendment of section 4, Act V of 1898.- In the Code of Criminal Procedure, 1898 (V of 1898), hereinafter referred to as the Code, in section 4,-

(i) in paragraph (ma), the words "and includes Special Judicial Magistrate" shall be omitted and for figure "14" the expression "14A" shall be substituted; and

(ii) after paragraph (u) the following new paragraph (v) shall be added, namely:-

"(v) Summary Court" means the court established under section 14, of this Act."

3. Substitution of section 14, Act V of 1898.- In the Code, for section 14, the following shall be substituted, namely:-

"14. Summary Courts.- (1) The Federal Government **in consultation with the Islamabad High Court**, shall establish as many Summary Courts in the Islamabad Capital Territory, as they may deem necessary, to try offences in respect to particular cases or to particular class or particular classes of cases, or in regard to cases generally in any local area as determined by the Federal Government.

(2) Such courts shall be called Summary Courts and shall be established by the Federal Government, **in consultation with the Islamabad High Court.**”.

4. Substitution of section 14A, Act V of 1898.- In the Code, for section 14A, the following shall be substituted, namely:-

“14A. Appointment of Summary Court Magistrates.- (1) Notwithstanding anything contained in this Code or any other law for the time being in force or any judgment of any court including superior courts, the Federal Government **in consultation with the Islamabad High Court**, may **appoint** any Judicial Magistrate for the **trial** of offences relating to price control under any law for the time being in force.

(2) The Islamabad High Court in this behalf may, from time to time, define local **limits** within which such Judicial Magistrates may exercise all or any of the powers with which they may respectively be **vested** under any law relating to price control.”.

5. Amendment of section 408, Act V of 1898.- In the Code, in section 408, the expression “,Special Magistrate” shall be omitted.

6. Amendment of section 414A, Act V of 1898.- In the Code, in section 414A, for the words “Special Magistrate”, the words “Judicial Magistrate” shall be substituted.

STATEMENTS OF OBJECTS AND REASONS

The Constitutions of Pakistan in Article 175(3) says "The Judiciary shall be separated progressively from Executive within 3 [fourteen] years from commencing day". The said Article guarantees independence and separation of the judiciary from the Executive Branch of the Government. Originally, the Constitution provided a period of three years for the separation but later the period was enhanced to fourteen years through Constitutional amendments. Yet there are certain provisions in the prevailing legal system compromising the spirit of the said Article, in which Special Judicial Magistrates are among them. The Special Judicial Magistrates being the executive are conferred with judicial power impedes the impartial administration of justice.

2. Amendments in various sections of Criminal Procedure Code seek to separate Judiciary from the Executive through substitution of the Special Judicial Magistrates with Judicial Magistrates designated for the trial of petty offences in the Summary Courts. Under the provision of section 14 and 14A of the Criminal Procedure Code, the Special Judicial Magistrates being representative of the executive, were empowered to exercise judicial functions and conduct summary trials of minor offences which are in contravention of the contours of separation of judiciary from the executive as safeguarded in the Constitution of Pakistan.

3. The Bill seeks to achieve the above said purpose.

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Member National Assembly