

**THE AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,  
LAW & PARLIAMENTARY AFFAIRS SECRETARIAT,  
MUZAFARABAD.**

Dated 20<sup>th</sup> October, 1983.

No. 1370/LD/83. The following Ordinance made by the President on the 20<sup>th</sup> day of October, 1983, is hereby published for general information:-

**(ORDINANCE CCXXXII of 1983)**

**AN  
ORDINANCE**

further to amend the Code of Criminal Procedure, 1898

WHEREAS it is necessary to amend the Code of Criminal Procedure, 1898 (Act V of 1898), for the purposes hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President is pleased to make and promulgate the following Ordinance:-

1. **Short title and Commencement.**- (1) This Ordinance may be called the Code of Criminal Procedure (Amendment) Ordinance, 1983.  
(2) It shall come into force at once.
2. **Amendment of Section 22, Act V of 1898.**- In the Code of Criminal Procedure, 1898, (Act V of 1898) as in force in Azad Jammu and Kashmir hereinafter referred to as the said Code for Section 22, the following shall be substituted, namely:-  
“22. **Appointment of Justice of the Peace.**- The Azad Government of the State of Jammu and Kashmir may, by notification in the official Gazette, appoint for such period as may be specified in the notification, and subject to such rules as may be made by it any person who is a citizen of Azad Jammu and Kashmir and as to whose integrity it is satisfied to be a Justice of the Peace for a local area to be specified in the notification, and more than one Justice of Peace may be appointed for the same local area.  
“22-A, **Powers of Justice of the Peace.**- (1) A Justice of the Peace for any local area shall, for the purpose of making an arrest, have within such area all the Powers of a Police officer referred to in Section 64 and an officer-in-charge of a police station referred to in Section 55.

- (2) A justice of peace making an arrest in exercise of any powers under sub-section (1) shall, forthwith take or cause to be taken and furnish such officer in charge of the nearest police station and furnish such officer with a report as to the circumstances of the arrest and such officer shall thereupon re-arrest the person.
- (3) A Justice of the Peace for any local area shall have Powers within such area, to call upon any member of the Police force on duty to aid him:-
- (a) in taking or preventing the escape of any person who has participated in the commission of any cognizable offence or against whom a responsible complaint has been made or credible information has been received or a reasonable suspicion exists of his having so participated; and
  - (b) in the prevention of crime in general and, in particular, in the prevention of a breach of the peace or disturbance of the public tranquility.
- (4) Where a member of the police force on duty has been called upon to render aid under subsection (3) such call shall be deemed to have been made by a competent authority.
- (5) A Justice of the Peace for any local area may, in accordance with such rules as may be made by the Government.-
- (a) issue a certificate as to the identity of any person residing within such rules area, or
  - (b) verify any document brought before him by any such person; or
  - (c) attest any such document required by or under any law for the time being in force; to be attested by a Magistrate;
- and until the contrary is proved, any 'certificate so issued shall be presumed to be correct and any document so verified shall be deemed to be duly verified, and any document so attested shall be deemed to have been as fully attested as if he had been a Magistrate.

**22-B. Duties of Justice of the Peace.-** Subject to such rules as may be made by the Government, every Justice of the Peace for any local area shall;-

- (a) on receipt of information of the occurrence of any incident involving a breach of the peace, or of the commission of any offence within such local area, forthwith make inquires into the matter and report in writing the result of his inquires to the nearest Magistrate and to officer in charge of the nearest Police-Station;
- (b) if the offence referred to in clause (a) is a cognizable offence, also prevent the removal of any thing from or the interference in any way with, the place of occurrence of the offence;
- (c) when so required in writing by a police-officer making an investigation under Chapter XIV in respect of any offence committed within such local area,
  - (i) render all assistance to the Police-officer in making such an investigation;
  - (ii) record any statement made under expectation of death by person in respect of whom a crime is believed to have been committed.

3. **Insertion of new Section 382-A, 382-B, and 282-C, Act, V of 1898.** In the said Code, after section 382, the following new Section 382-A, 382-B and 382-C shall be inserted.

**“382-A. Postponement of execution of sentences of imprisonment under Section 476; or for a period of less than one year.-** Notwithstanding anything contained in Section 383 or 391, where the accused-

- (a) is awarded any sentenced in of imprisonment under Section 476; or
- (b) is sentenced in cases other than those provided for in Section 381, to imprisonment whether with or without fine or whipping, for a period of less than one year.

“The sentence shall not, if the accused furnishes bail to the satisfaction of the Court for his appearance at such time and place as the Court may direct, be executed, until the expiry of the period prescribed for making an appeal against such sentence or, if an appeal is made within that time, until the sentence of imprisonment is confirmed by the Appellate Court; but the sentence shall be executed as soon as practicable after the expiry of the period prescribed for making an appeal, or, in case of an appeal, as soon as practicable after the receipt of the order of the Appellate Court confirming the sentence.”

**“382-B.Period of detention to be considered, while awarding sentence of imprisonment.-** Where a Court decides to pass a sentence of imprisonment on an accused for an offence, it shall take into consideration the period of any, during which such accused was detained in custody for such offence.”

**“382-C. Scandalous or false and frivolous pleas to be considered in passing sentence.-** In passing a sentence on an accused for any offence, a Court may take into consideration any scandalous or false and frivolous plea taken in defence by him or on his behalf.”

4. **Amendment of Section 510, Act V of 1898.-** In the said Code, for Section 510, the following shall be substituted, namely:-

**“510. Report of Chemical Examiner, Serologist etc.-** Any document purporting to be a report, under the hand of any Chemical Examiner to any serologist, finger print expert or fire-arm expert appointed by Government, upon any matter or thing duly submitted to him for examination or analysis and report in the course of any proceeding under this Code, may, without calling him as a witness, be used as evidence in any inquiry, trial or other proceeding under this Code

“Provided that the Court may, if it considers necessary in the interest of justice, summon and examine the person by whom such report has been made.”

5. **Amendment of Schedule II, Act, V of 1898.-** In the said Code of Criminal Procedure, 1898 (Act V of 1898), in Schedule II, after the entries relating to Section 298, the following entries shall be inserted, namely:-

1	2	3	4	5	6	7	8	
298-	Use	of	May	Ditto	Ditto	Not compou-	Imprison-	Ditto
A	derogatory	arrest	without			ndable	ment of	
	remarks etc in	respect	of warrant.				either	
	respect	of					description	
	holy						of three	
	personsages.						years, or fine	
							or both.	

1. **Amendment of Second Schedule, Act V of 1898.-** In the Code of Criminal Procedure, 1898, (Act V of 1898), in schedule for the heading offences other laws and the entries relating to Section 298 thereunder the following entries shall be inserted namely:-

(Abdul Rehman Khan)  
Azad Jammu And Kashmir  
Sd/- (Khalil Ahmed Qureshi)  
Secretary Law.