

**Amendment of Sections 32, 260 and 261  
of  
the Code of Criminal Procedure 1898**

**Report No. 40**

**Amendment of Sections 32, 260 and 261 of  
the Code of Criminal Procedure 1898**

## Section 32:

Section 32 of the Code of Criminal Procedure 1898 (hereinafter referred to as the Code) empowers the Magistrates of the First Class, Second Class and Third Class to award punishment of sentence of imprisonment and fine prescribed under the Pakistan Penal Code 1860 (hereinafter referred to as the Penal Code). The quantum of fine which a Magistrate can impose on the accused person was fixed long ago which has lost its deterrence because of devaluation of currency. The Secretariat of the Commission while proposing enhancement of the amount of fine of offences under the Penal Code also examined the Jurisdiction of the Magistrates provided in the Code for awarding such fine which requires to be proportionately enhanced. Therefore, the Secretariat proposed the following enhancement in Jurisdiction of various classes of Magistrates in awarding fine under Section 32 of the Code for consideration of the Commission.

1	Courts of Magistrates of the First Class.	The prescribed amount of fine “fifteen thousand rupees” be enhanced to “twenty thousand rupees”.
2	Courts of Magistrates of the Second Class.	The prescribed amount of fine “five thousand rupees” be enhanced to “fifteen thousand rupees”.
3	Courts of Magistrates of the Third Class.	The prescribed amount of fine “one thousand rupees” be enhanced to “five thousand rupees”.

The Commission in its meeting held on 18 May 2002 examined the existing jurisdiction of various Magisterial Courts for awarding fine and the enhancement proposed therein by the Secretariat under Section 32 of the Code along with the proposal of enhancement of punishment of fine in offences under the Penal Code and found necessary to enhance it to correspond with the proposed enhancement of punishment of fine of various offences under the Penal Code. The Commission, therefore, approved a three-fold increase in the present jurisdiction of various classes of the Magistrates for imposing fine given as under as per increase in the punishment of fine of various offences.

1	Courts of Magistrates of the First Class.	The prescribed amount of fine “fifteen thousand rupees” be enhanced to “forty five thousand rupees”.
2	Courts of Magistrates of the Second Class.	The prescribed amount of fine “five thousand rupees” be enhanced to “fifteen thousand rupees”.
3	Courts of Magistrates of the Third Class.	The prescribed amount of fine “one thousand rupees” be enhanced to “three thousand rupees”.

**Section 260:**

Section 260 of the Code provides that a Magistrate of the First Class, if specially empowered by the Provincial Government, may try in summary way various offences including the offences of theft under Sections 379, 380 or 381, dishonest misappropriation of property under Section 403, receiving or retaining stolen property under Section 411 or assisting in the concealment or disposal of property under Section 414 of the Penal Code, where the value of such property does not exceed two thousand and five hundred rupees. This value of the property concerning offences attracting trial by way of summary manner was fixed long time ago and in view of constant increase of cost of property this valuation turned meagre ousting the cases of the property stolen or misappropriated earlier liable for summary trial from the summary Jurisdiction of the Magistrate. The Secretariat of the Commission proposed that the value of the property falling subject matter of offences triable in a summary way may be enhanced from two thousands five hundred to five thousand rupees so that the Summary Jurisdiction of the Magistrates to the offences relating to such property getting rise in value may remain intact under Section 260 of the Code. The Commission while considering proposal of the Secretariat found that the increase in value of the properties have been increased more than double since it

was earlier fixed therefore, the Commission approved an enhancement of the value of such property from two thousand and five hundred rupees to ten thousand rupees.

**Section 261:**

Section 261 of the Code provides that the Provincial Government may on the recommendation of the High Court confer on any Bench of Magistrates invested with the powers of a Magistrate of the Second or Third Class, to try summarily all or any of the following offences:-

- (a) offences against the Penal Code, Sections 277,  
278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336,  
341, 352, 426, 447 and 504;

The above clause still refers to certain Sections of the Penal Code which have been repealed and substituted by providing different kinds of offences triable by Court of Sessions. The pre-repeal Section 323 providing punishment for causing simple hurt, Section 334 causing hurt on provocation and Section 336 relating to an act endangering life or personal safety of others, of the Penal Code, have now been substituted by Sections 337(i) 337H (2) and 337L(2) of the Penal Code through the Criminal Law (Amendment) Act 1997 (II of 1997) generally known as providing for Qisas and Diyat. But no consequential amendment in clause (a) of Section 261 of the Code referring Sections 323, 334 and 336 of the Penal Code which have been omitted and substituted by Sections 337(i), 337H and 337L(2) is made in the Code. The Secretariat proposed that reference to these omitted Sections may be substituted by Sections 337A(i), 337H (2) and 337L(2) of the Penal Code and the Commission agreed to the proposal and recommended the Government to amend Sections 32, 260 and 261 of the Code. A Comparative statement showing the existing and proposed amendment in provisions of the Code of Criminal Procedure 1898 is at Appendix -1. The proposed Draft Ordinance is at Appendix -II.

**AN ORDINANCE**

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) 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 pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, and the Provisional Constitution Order No. 1 of 1999, read with the Provisional Constitution (Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the President of the Islamic Republic of Pakistan is pleased to make and promulgate the following Ordinance: -

**1. Short title and commencement.** --(I) This Ordinance may be called the Code of Criminal Procedure (Amendment) Ordinance 2002.

(2) It shall come into force at once.

**2. Amendment of Section 32, Act V of 1898.-** In the Code of Criminal Procedure 1898(V of 1898) hereinafter referred to as the said Act, in Section 32 in Sub-section (1),-

- (i) in clause (a), for the words “fifteen thousand” the words “forty five thousand” shall be substituted;
- (ii) in clause (b), for the words “five thousand” the words” fifteen thousand” shall be substituted; and
- (iii) in clause (c), for the words” one thousand” the words “ three thousand” shall be substituted;

3. **Amendment of Section 260, Act V of 1898.-** In the said Act, in Section 260, in Sub-section (1),-

- (i) in clause (c) for the figure “323” the words “brackets, figures and letter “ clause (i) of Section 337A” shall be substituted; and
- (ii) in clauses (d), (e), (f) and (g), for the words “two thousand and five hundred rupees” the words “ten thousand rupees” shall be substituted;

**Amendment of Section 261, Act V of 1898 .-** In the said Act, in Section 261, in clause (a), for the figures and commas “323, 334, 336” the figures, letters, brackets and commas “ 337A (i), 337H(2), 337L(2) ” shall be substituted;

**President of Pakistan**

Appendix -II

COMPARATIVE STATEMENT OF THE EXISTING PROVISIONS OF THE CODE OF CRIMINAL PROCEDURE 1898 AND PROPOSED AMENDED PROVISIONS

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<b>Sections</b>	<b>Existing provisions</b>	<b>Proposed provisions</b>	
<b>1</b>	<b>2</b>	<b>3</b>	
32(1)	Sentences, which Magistrate may pass.	The Courts of Magistrates may pass the following sentences namely:-  (a) Courts of Magistrates of the first class.  Imprisonment for a term not exceeding three years including such solitary confinement as is authorized	(a) Courts of Magistrates of the first class.  Imprisonment for a term not exceeding three years including such solitary confinement as is

by law,

authorized by law,

Fine not exceeding fifteen thousand rupees, arsh, daman. Whipping.

Fine not exceeding forty five thousand rupees arsh, daman; whipping.

(b) Courts of Magistrate of the second

(b) Courts of Magistrate of the second

Imprisonment for a term not exceeding one years including such solitary confinement as is authorized by law

Imprisonment for a term not exceeding one years including such solitary confinement as is authorized by law

Fine not exceeding five thousand rupees.

Fine not exceeding fifteen thousand rupees.

(c) Courts of Magistrates of the third class:

(c) Courts of Magistrates of the third class:

Imprisonment for a term not exceeding one month;

Imprisonment for a term not exceeding one month;

Fine not exceeding one thousand rupees.

Fine not exceeding three thousand rupees.

260(1) Power to try summarily.

Notwithstanding anything contained in this Code--

(a) Omitted.

(a) Omitted.

(b) any Magistrate of the first class specially empowered in this behalf by the Provincial Government, and

(b) any Magistrate of the first class specially empowered in this behalf by the Provincial Government, and

(c) any Bench of Magistrates invested with the powers of a Magistrate of the first class and especially empowered in this behalf by the Provincial Government,

(c) any Bench of Magistrates invested with the powers of a Magistrate of the first class and especially empowered in this behalf by the Provincial Government,

may, if he or they think fit, try in a summary way all or any of the following offences:-

may, if he or they think fit, try in a summary way all or any of the following offences:-

(a) offences not punishable with death, transportation or imprisonment for a term exceeding six months;

(a) offences not punishable with death, transportation or imprisonment for a term exceeding six months;

(b) offences relating to weights and measures under Sections 264, 265 and 266 of the Pakistan Penal Code;

(b) offences relating to weights and measures under Sections 264, 265 and 266 of the Pakistan Penal Code;

(c) hurt, under Section 323 of the same Code

(c) hurt, under clause (i) of Section 337A of the same Code;

(d) theft, under Section 379, 338 or 381 of the same Code, where the value of the property stolen does not exceed two thousand and five hundred rupees;

(d) theft, under Section 379, 380 or 381 of the same Code, where, the value of the property stolen does not exceed five thousand rupees;

(e) dishonest misappropriation of property under Section 403 of the same Code, where the value of the property misappropriated does not exceed two thousand and five hundred rupees;

(e) dishonest misappropriation of property under Section 403 of the same Code, where value of the property the misappropriated does not exceed five thousand rupees.

(f) receiving or retaining stolen property under Section 411 of the same Code, where the value of such property does not exceed two thousand and five hundred rupees;

(f) receiving or retaining stolen property under Section 411 of the same Code, where the value of such property does not exceed five thousand rupees;

(g) assisting in the

(g) assisting in the concealment or disposal of stolen property, under

concealment or disposal of stolen property, under Section 414 of the same Code, where the value of such property does not exceed two thousand and five hundred rupees;	Section 414 of the same Code, where the value of such property does not exceed five thousand rupees
(h) mischief, under Section 427 of the same Code;	(h) mischief, under Section 427 of the same Code;
(i) house-trespass, under Section 448, and offences under Sections 451, 453, 454, 456 and 457 of the same Code;	(i) house-trespass, under Section 448, and offences under Sections 451, 453, 454, 456 and 457 of the same Code;
(j) insult with intent to provoke a breach of the peace, under Section 504, and criminal intimidation, under Section 506, of the same Code;	(j) insult with intent to provoke a breach of the peace, under Section 504, and criminal intimidation, under Section 506, of the same Code;
(jj) offence of personation at an election under Section 171F of the same Code;	(jj) offence of personation at an election under Section 171F of the same Code;
(k) abetment of any of the foregoing offences, when such attempt is an offence;	(k) abetment of any of the foregoing offences, when such attempt is an offence;
(k) abetment of any of the foregoing offences, when such attempt is an offence;	(l) an attempt to commit any of the foregoing offences, when such attempt is an

offence;

(l) an attempt to commit any of the foregoing offences, when such attempt is an offence;

(m) offences under Section 20 of the Cattle-trespass Act 1871:

(m) offences under Section 20 of the Cattle-trespass Act 1871:

261 Power to invest Bench of Magistrates invested with less powers

The Provincial Government may on the recommendation of the High Court, confer on any Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences:

The Provincial Government may on the recommendation of the High Court confer on any Bench of Magistrates invested with the powers of a Magistrate of the second or third class power to try summarily all or any of the following offences: -

(a) offences against the Pakistan Penal Code Sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 323, 334, 336, 341, 352, 426, 447 and 504;

(a) offences against the Pakistan Penal Code Sections 277, 278, 279, 285, 286, 289, 290, 292, 293, 294, 337A(i), 337H(2), 337L(2), 341, 352, 426, 447 and 504-

(b) offences against Municipal Acts, and the conservancy clauses of Police Acts which are punishable only with fine or with imprisonment for a term not exceeding one month

(b) offences against Municipal Acts, and the conservancy clauses of Police Acts which are punishable only with fine or with imprisonment for a term not exceeding one

with or without fine;

month with or without fine;

(c) abetment of any of the foregoing offences;

(c) abetment of any of the foregoing offences;

(d) an attempt to commit any of the foregoing offences, when such attempt is an offence.

(d) an attempt to commit any of the foregoing offences, when such attempt is an offence.