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## PART V

## Acts of the Indian Legislature assented to by the Governor General

GOVERNMENT OF INDIA  
LEGISLATIVE DEPARTMENT

The following Acts of the Indian Legislature received the assent of the Governor General on the 27th November, 1943, and are hereby promulgated for general information:—

## ACT No. XXVI OF 1943

*An Act to make certain provision for appeals in criminal cases tried by a High Court exercising original criminal jurisdiction*

WHEREAS it is expedient to make certain provision for appeals in criminal cases tried by a High Court exercising original criminal jurisdiction;

It is hereby enacted as follows:—

**1. Short title**—This Act may be called the Criminal Procedure Amendment Act, 1943.

**2. Insertion of new section 411A in Act V of 1898**—After section 411 of the Code of Criminal Procedure, 1898 (V of 1898) hereinafter referred to as the said Code, the following section shall be inserted, namely:

**“411A. Appeal from sentence of High Court.**—(1) Without prejudice to the provisions of section 449 any person convicted on a trial held by a High Court in the exercise of its original criminal jurisdiction may, notwithstanding anything contained in section 418 or section 423, sub-section (2), or in the Letters Patent of any High Court, appeal to the High Court—

(a) against the conviction on any ground of appeal which involves a matter of law only;

(b) with the leave of the appellate Court, or upon the certificate of the judge who tried the case that it is a fit case for appeal, against the conviction on any ground of appeal which involves a matter of fact only, or a matter of mixed law and fact, or any other ground which appears to the appellate Court to be a sufficient ground of appeal, and

(c) with the leave of the appellate Court, against the sentence passed unless the sentence is one fixed by law.

(2) Notwithstanding anything contained in section 417, the Provincial Government may direct the Public Prosecutor to present an appeal to the High Court from any order of acquittal passed by the High Court in the exercise of its original criminal jurisdiction, and such appeal may, notwithstanding anything contained in section 418, or section 423, sub-section (2) or in the Letters Patent of any High Court, but subject to the restrictions imposed by clause (b) and clause (c) of sub-section (1) of the section on an appeal against a conviction, lie on a matter of fact as well as a matter of law.

(3) Notwithstanding anything elsewhere contained in any Act or Regulation, an appeal under this section shall be heard by a Division Court of the High Court composed of not less than two judges, being judges other than the judge or judges by whom the original trial was held; and if the constitution of such a Division Court is impracticable, the High Court shall report the circumstances to the Provincial Government which shall take action with a view to the transfer of the appeal under section 527 to another High Court.

(4) Subject to such rules as may from time to time be made by His Majesty in Council in this behalf, and to such conditions as the High Court may establish or require, an appeal shall lie to His Majesty in Council from any order made on appeal under sub-section (1) by a Division Court of the High Court in respect of which order the High Court declares that the matter is a fit one for such appeal.

**3. Amendment of section 412, Act V of 1898**—In section 412 of the said Code, after the word “by” the words “a High Court,” shall be inserted.

**4. Amendment of section 413, Act V of 1898**—In section 413 of the said Code, after the words “in which” where they occur for the first time the words “a High Court passes a sentence of imprisonment not exceeding six months only or of fine not exceeding two hundred rupees only or in which” shall be inserted.

**5. Amendment of sections 422, 423, 427 and 431, Act V of 1898**—In sections 422, 423, 427 and 431 of the said Code, for the word and figures “section 417”, the words figures, brackets and letter “section 411A, sub-section (2), or section 417” shall be substituted.

**6. Omission of section 434, Act V of 1898**—Section 434 of the said Code shall be omitted.

**7. Amendments of Letters Patent of High Courts and certain Acts**—(1) Clauses 25, 26 and 41 of the Letters Patent for the High Courts at Bombay, at Madras and at Fort William in Bengal, clauses 18, 19 and 32 of the Letters Patent for the High Court at Allahabad, clauses 18, 19 and 31 of the Letters Patent for the High Courts at Lahore and at Nagpur, and clauses 18, 19 and 33 of the Letters Patent for the High Court at Patna shall cease to have effect.

(2) In the Oudh Courts Act, 1925 (U. P. Act IV of 1925),—

(a) to sub-section (1) of section 14, the following proviso shall be added, namely:—

“Provided that nothing in this sub-section shall apply to a judge or a Bench of judges exercising original criminal jurisdiction.”;

(b) section 15 shall be omitted.

(3) In the Sindh Courts Act, 1926 (Bom. Act VII of 1926),—

(a) to section 12, the following proviso shall be added, namely:—

“Provided that nothing in this section shall apply to a judge of the Chief Court exercising the jurisdiction of the Chief Court as the principal criminal Court of original jurisdiction for the sessions division of Karachi.”;

(b) section 13 shall be omitted.

**8. Amendment of First Schedule, Act XI of 1908**—In the First Schedule to the Indian Limitation Act, 1908 (XI of 1908), in article 150, to the entry in the first column, the words “or by a High Court in the exercise of its original criminal jurisdiction” shall be added.

## ACT No. XXVII OF 1943

*An Act 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;

It is hereby enacted as follows:—

**1. Short title**—This Act may be called the Code of Criminal Procedure (Amendment) Act, 1943.

**2. Amendment of section 503, Act V of 1898**—In section 503 of the Code of Criminal Procedure, 1898 (V of 1898) (hereinafter referred to as the said Code),—

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) When the witness resides in an Indian State the commission may be issued to the officer, who is, for the time being, the Political Agent for such State, and when the witness resides in a Tribal Area, the commission may be issued to the officer exercising the powers of a District Magistrate in, or in relation to, such area.”;

(b) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) Where the commission is issued to such officer as is mentioned in sub-section (2), he may, in lieu of proceeding in the manner laid down in sub-section (3),—

(a) delegate his powers and duties under the commission to any officer subordinate to him whose powers are

not less than those of a Magistrate of the first class in British India, or

(b) where the commission is for the examination of a witness residing in an Indian State, forward it for execution to the State Court, if any, recognised by the Crown Representative by notification in the official Gazette as a Court to which commissions may be forwarded under the sub-section, within the local limits of whose jurisdiction the witness resides."

3. *Amendment of section 505, Act V of 1898.*—In section 505 of the said Code,—

(a) in sub-section (1),—

(i) for the words "and the Magistrate" the following shall be substituted, namely:—

"and, except in a case to which clause (b) of sub-section (4) of section 503 applies, the Magistrate";

(ii) after the words "such interrogatories" the following sentence shall be added, namely:—

"In a case to which clause (b) of sub-section (4) of section 503 applies, the officer to whom the commission is issued shall forward such interrogatories to the Court to which he forwards the commission for execution.";

(b) in sub-section (2), for the word "Officer" the following shall be substituted namely:—

"except in a case to which clause (b) of sub-section (4) of section 503 applies, before such officer".

4. *Amendment of section 507, Act V of 1898.*—In sub-section (1) of section 507 of the said Code, after the words "duly executed", the following shall be inserted, namely:—

"or, in a case to which clause (b) of sub-section (4) of section 503 applies, has been again received by the officer by whom it was forwarded to the State Court".

#### ACT No. XXVIII OF 1943

##### *An Act 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;

It is hereby enacted as follows:—

1. **Short title.**—This Act may be called the Code of Criminal Procedure (Second Amendment) Act, 1943.

2. **Amendment of section 198, Act V of 1898.**—To section 198 of the Code of Criminal Procedure, 1898 (V of 1898) (hereinafter referred to as the said Code), the following further proviso shall be added, namely:—

"Provided further that where the husband aggrieved by an offence under section 494 of the said Code is serving in any of His Majesty's armed forces under conditions which are certified by his Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, some other person authorised by the husband in accordance with the provisions of sub-section (1) of section 199B may, with the leave of the Court, make a complaint on his behalf.

3. **Amendment of section 199, Act V of 1898.**—To section 199 of the said Code, the following further proviso shall be added, namely:—

"Provided further that where such husband is serving in any of His Majesty's armed forces under conditions which are certified by his Commanding Officer as precluding him from obtaining leave of absence to enable him to make a complaint in person, and where for any reason no complaint has been made by a person having care of the woman as aforesaid, some other person authorised by the husband in accordance with the provisions of sub-section (1) of section 199B may, with the leave of the Court, make a complaint on his behalf."

4. **Insertion of new section 199B in Act V of 1898.**—After section 199A of the said Code, the following section shall be inserted in Chapter XV, namely:—

"199B. **Form of authorisation under second proviso to section 198 or 199.**—(1) The authorisation of a husband given to another person to make a complaint on his behalf under the second proviso to section 198 or the second proviso to section 199 shall be in writing, shall be signed or otherwise attested by the husband, shall contain a statement to the effect that he has been informed of the allegations upon which the complaint is to be founded, shall be countersigned by the Officer referred to in the said provisos and shall be accompanied by a certificate signed by that officer to the effect that leave of absence for the purpose of making a complaint in person cannot for the time being be granted to the husband.

(2) Any document purporting to be such an authorisation and complying with the provisions of sub-section (1), and any document purporting to be a certificate required by that sub-section shall, unless the contrary is proved, be presumed to be genuine, and shall be received in evidence.

#### ACT No. XXIX OF 1943.

##### *An Act further to amend the Indian Tea Control Act, 1938*

WHEREAS it is expedient further to amend the Indian Tea Control Act, 1938 (VIII of 1938), for the purposes hereinafter appearing:—

It is hereby enacted as follows:—

1. **Short title.**—This Act may be called the Indian Tea Control (Second Amendment) Act, 1943.

2. **Amendment of section 11, Act VIII of 1938.**—In section 11 of the Indian Tea Control Act, 1938 (VIII of 1938) (hereinafter referred to as the said Act), for clause (d), the following clause shall be substituted, namely:—

"(d) exported with the previous sanction of the Central Government, within the limits prescribed in this behalf, by a Red Cross Society or by any organisation for providing amenities for troops overseas".

3. **Amendment of section 17, Act VIII of 1938.**—In section 17 of the said Act, in sub-section (5), after the words "the Committee may" the words "with the general or special previous sanction of the Central Government refuse to issue a special export licence or" shall be inserted.

4. **Amendment of section 29, Act VIII of 1938.**—In sub-section (1) of section 29 of the said Act, for the words and figures "Where any land which was on the 31st day of March 1943, planted with tea", the following shall be substituted, namely:—

"Where any land which was at the 31st day of March 1933, planted with tea (including land planted with tea at the 31st day of March 1931, from which the original bushes had been uprooted and which had not been replanted with tea at the said 31st day of March 1933), or where any land planted with tea after the 31st day of March, 1933—"

5. **Amendment of section 33, Act VIII of 1938.**—In section 33 of the said Act, after the words "A breach of the provision of" the words, brackets and figures "sub-section (4) of section 12 or" shall be inserted.

#### ACT No. XXX OF 1943

##### *An Act further to amend the Indian Companies Act, 1913*

WHEREAS it is expedient further to amend the Indian Companies Act, 1913 (VII of 1913), for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title.**—This Act may be called the Indian Companies (Amendment) Act, 1943.

2. **Amendment of section 132, Act VII of 1913.**—In sub-section (1) of section 132 of the Indian Companies Act, 1913 (VII of 1913) (hereinafter referred to as the said Act), after the word "company", the following shall be inserted and shall be deemed always to have been inserted namely:—

"in accordance with the requirements indicated by the items contained in the form marked F in the Third Schedule."

3. **Amendment of section 151, Act VII of 1913.**—In sub-section (3) of section 151 of the said Act, for the words "Any such table or form, when altered, shall be published in the official Gazette, and on such publication shall have effect as if enacted in this Act.", the following shall be substituted and shall be deemed always to have been substituted, namely:—

"Any alteration or addition made under sub-section (1) shall be published in the official Gazette, and on such publication the table or form as so altered or the added form, as the case may be, shall have effect as if enacted in this Act."

4. **Amendment of First Schedule, Act VII of 1913.**—In Table A in the First Schedule to the said Act, in Regulation 107, after the words "the amount of gross income", the brackets and words "(diminished in the case of a banking company by the amount of any provision made to the satisfaction of the auditors for bad and doubtful debts)" shall be inserted and shall be deemed always to have been inserted.

**5. Amendment of Third Schedule, Act VII of 1913**—In the form marked F in the Third Schedule to the said Act, the following substitutions shall be made and shall be deemed always to have been made, namely :—

(a) in the column headed "CAPITAL AND LIABILITIES", for the sub-head "PROVISION FOR BAD AND DOUBTFUL DEBTS", the following sub-head shall be substituted, namely :—

"PROVISION FOR BAD AND DOUBTFUL DEBTS (IN THE CASE OF COMPANIES OTHER THAN BANKING COMPANIES)";

(b) in the column headed "PROPERTY AND ASSETS", for the sub-head "BOOK DEBTS", the following sub-head shall be substituted, namely :—  
"BOOK DEBTS (OTHER THAN BAD AND DOUBTFUL DEBTS OF A BANKING COMPANY FOR WHICH PROVISION HAS BEEN MADE TO THE SATISFACTION OF THE AUDITORS)".

G. H. SPENCE  
Secy. to the Govt. of India

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