

**BOMBAY SEPARATION OF JUDICIAL AND EXECUTIVE
FUNCTIONS (EXTENSION) AND THE CODE OF CRIMINAL
PROCEDURE (PROVISION FOR UNIFORMITY) ACT, 1958**

97 of 1958

[December 5, 1958]

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An Act to provide for the separation of the performance of judicial and executive functions by officers throughout the State of Bombay, to provide for uniformity in the Code of Criminal Procedure, 1898, in its application to the whole of the State, and for matters connected with the purposes aforesaid. WHEREAS the separation of the performance of judicial and executive function by officers has been effected by law only in certain areas of the State

of Bombay ; AND WHEREAS, it is now expedient to provide for such separation of functions throughout the State; AND WHEREAS it is also expedient to provide for uniformity in the provisions of the Code of Criminal Procedure, 1898 (V of 1898), in its application to the whole of the State of Bombay, and to provide for matters connected with the purposes aforesaid; it is hereby enacted in the Ninth Year of the Republic of India as follows :

1. Short title, extent and commencement :-

(1) This Act may be called the Bombay Separation of Judicial and Executive Functions (Extension) and the Code of Criminal Procedure (Provision for Uniformity) Act, 1958.

(2) It extends to the whole of the State of Bombay.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. . :-

Separation of judicial and executive functions and uniformity of Criminal Procedure Code, throughout State, any consequential provisions For the purpose of effecting by law, the separation of the judicial and executive functions by officers throughout the State of Bombay, and also for providing for uniformity in the provisions of the Code of Criminal Procedure, 1898, (V of 1898), in its application throughout the State, on the commencement of this Act, the Code of Criminal Procedure, 1898, (V of 1898) (hereinafter referred to as "the Code") as in force immediately before such commencement in the pre-Reorganisation State of Bombay (excluding the transferred territories), shall be so in force throughout the State of Bombay; and accordingly

(a)

(i) all amendments made by any law in the provisions of the Code (whether by way of modifications thereto, substitutions thereof, deletions therefrom, insertions therein additions thereto, or otherwise) in the application exclusively of the Code to any of the areas at present forming the Saurashtra area, Kutch area, Hyderabad area or Vidarbha region of the State of Bombay, and in particular the amendments made in the Code by the Acts specified in the First Schedule to this Act, shall cease to have effect and shall stand repealed; and

(ii) all amendments made to the Code in its application to the pre-Reorganisation State of Bombay (excluding the transferred territories), and¹ in force at the commencement of this Act, shall be deemed to be extended to and shall be in force in, the remaining part of the State and the relevant provisions of the Code shall be deemed to be amended (whether by way of modification thereto, substitution thereof, deletion therefrom, insertion therein, addition thereto, or otherwise) accordingly;

(b) the amendments made to the Central Acts (other than the Code), in their application to the pre-Reorganisation State of Bombay, by the Bombay Separation of Judicial and Executive Functions Act, 1951, (Bom. XXIII of 1951), the Bombay Criminal Procedure (Amendment) Act, 1953, (Bom. XXXVI of 1953), and the Bombay Separation of Judicial and Executive Functions (Supplementary) Act, 1954, (Bom. VIII of 1954), shall be deemed to be extended to, and shall be in force in, the remaining part of the State of Bombay, to which such Central Acts extend, and accordingly, those provisions in Central Acts in their application to the various areas of the State shall be deemed to be amended (whether by way of modification thereto substitution thereof, deletion therefrom, insertion therein, addition thereto, or otherwise) and any amendments already made in those Central Acts and in force immediately before the commencement of this Act in any areas of the State, which amendments conflict with or correspond to the amendments now extended, shall be repealed;

(c) the laws specified in Parts I, II III and IV of the Second Schedule shall be amended in the manner and to the extent specified in the fourth column of the said Schedule;

(d) in sections 6 and 7 of the Code in its application to the State of Bombay, for the words "pre-Reorganisation State of Bombay, excluding the transferred territories" the words "State of Bombay" shall be substituted, and in the Schedule to the Central Acts on State and concurrent Subjects (Bombay Adaptation) Order, 1957, all entries relating to the Code of Criminal Procedure, 1898, (V of 1898), shall be deleted.

3. . :-

Amendments not to render invalid notifications, orders, etc., issued before commencement of this Act The provisions of this Act which amend the Code, or any other Central Act, or the State Acts specified in the second Schedule so as to alter the manner in which,

the authority or the law under which or in accordance with which, any powers are exercisable shall not render invalid any notification, order, commitment attachment, bye-law, rule or regulation duly made or issued or anything duly done before the commencement of this Act; and any such notification, order, commitment, attachment, bye-law, rule or regulation or thing may be revoked, varied undone in the like manner and to the like extent, and in the like circumstances, as if it had been done after the commencement of this Act by the competent authority and in accordance with the provision then applicable to such a case.

4. Savings :-

(1) Save as provided in this section, nothing in this Act shall be deemed to affect

(a) the validity, invalidity, effect or consequence of anything done or suffered to be done in any area before the date on which the provisions of this Act come into force therein;

(b) any right, privilege, obligation or liability already acquired, accrued or incurred before such date;

(c) any penalty, forfeiture or punishment incurred or inflicted in respect of any act before such date;

(d) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed in accordance with the provisions of the relevant Acts as amended by this Act

(2) All legal proceedings pending before a Magistrate or Court on the date on which this Act come into force shall, if such Magistrate or Court ceases to have jurisdiction in respect of such proceedings under the provisions of the relevant Acts as amended by this Act, stand transferred to the Magistrate or Court having jurisdiction under the provisions of the relevant Acts as amended by this Act, and shall be heard and disposed of by such Magistrate or Court, and such Magistrate and Court shall have all the powers and jurisdiction thereof as if they had been originally instituted before such Magistrate or in such Court.

5. Power to remove difficulties :-

If any difficulty arises in giving effect to the provisions of this Act, the State Government may by order do anything, not inconsistent with such provisions and furtherance of the purposes set out in section 2 which appears to be necessary or expedient for the purpose of removing the difficulty.

SCHEDULE 1

SCHEDULE

FIRST SCHEDULE		
[See section 2(a)(i)]		
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Saurashtra Laws	1.	The Saurashtra Separation of Judicial and
		Executive Functions Act, 1952, (Sau. Act
		IV of 1952),
	2.	The Code of Criminal Procedure (Saurashtra
		Amendment) Act, 1955 (Sau. Act
		XLV of 1955).
Madhya Pradesh Laws ...	3.	The Code of Criminal Procedure (Central
		Provinces and Berar Amendment) Act,
		1936 (C.P. and Berar Act No. XIX of 1936).
	4.	The Madhya Pradesh Criminal Procedure
		Code (Amendment) Act, 1950 Madhya
		Pradesh Act No. L of 1950).
<p><u>SCHEDULE 2</u></p> <p>Acts in force in the Saurashtra area of the State of Bombay</p> <p><u>PART</u></p> <p>PART</p> <p><u>PART</u></p> <p>PART</p> <p><u>PART</u></p> <p>PART</p> <p><u>PART</u></p> <p>PART</p>		