

---

**Code Of Criminal Procedure (West Pakistan Amendment)  
Act, 1964**

**17 of 1964**

**[01 April 1964]**

**CONTENTS**

1. Short Title And Commencement
2. Amendment Of Section 244 Of Act V Of 1898
3. Insertion Of Section 251-A, Act V Of 1898
4. Amendment Of Section 256 Of Act V Of 1898
5. Amendment Of Section 257 Of Act V Of 1898
6. Substitution Of Section 268 Of Act V Of 1898
7. Amendment Of Section 269 Of Act V Of 1898
8. Amendment Of Section 272 Of Act V Of 1898
9. Omission Of Sub-Head "D" And Sections 284 And 285 Of Act V Of 1898
10. Amendment Of Section 286 Of Act V Of 1898
11. Amendment Of Section 289 Of Act V Of 1898
12. Amendment Of Sections 293, 294 And 295 Of Act V Of 1898
13. Amendment Of Sub-Head "H" And Section 309 Of Act V Of 1898
14. Amendment Of Section 310 Of Act V Of 1898
15. Amendment Of Sub-Head "K" And Sections 319, 320, 321, 324 And 326 To 332 Of Act V Of 1898
16. Amendment Of Section 339-A Of Act V Of 1898
17. Amendment Of Section 350 Of Act V Of 1898
18. Amendment Of Section 375 Of Act V Of 1898
19. Amendment Of Section 376 Of Act V Of 1898
20. Amendment Of Section 428 Of Act V Of 1898
21. Amendment Of Section 465 Of Act V Of 1898
22. Amendment Of Section 536 Of Act V Of 1898
23. Amendment Of Section 537 Of Act V Of 1898
24. Amendment Of Section 539-B Of Act V Of 1898
25. Amendment Of Second Schedule Of Act V Of 1898

**Code Of Criminal Procedure (West Pakistan Amendment)  
Act, 1964**

**17 of 1964**

**[01 April 1964]**

An Act to amend the Code of Criminal Procedure, 1898 in its application to the Province of West Pakistan Preamble.- WHEREAS the Law Commission appointed by the President has made certain recommendations for amendment of the Code of Criminal Procedure, 1898[2]; AND WHEREAS, it is considered expedient to amend the Code of Criminal Procedure, 1898[3], in its application to the Province of West Pakistan to give effect to certain recommendations of the Law Commission; It is hereby enacted as follows:-

### **1. Short Title And Commencement :-**

(1) This Act may be called the Code of Criminal Procedure (West Pakistan Amendment) Act, 1964.

(2) It shall come into force at once.

### **2. Amendment Of Section 244 Of Act V Of 1898 :-**

In the Code of Criminal Procedure, 1898[4], in its application to the Province of West Pakistan (hereinafter in this Act referred to as the said Code), in section 244, for sub-section (2), the following sub-section shall be substituted, namely:-

"(2) The magistrate shall on the application of the complainant or accused, issue a summons to any witness directing him to attend or to produce any document or other thing, unless he considers that such application should be refused on the ground that it is made for the purpose of vexation or delay or defeating the ends of justice. Such ground shall be recorded by him in writing".

### **3. Insertion Of Section 251-A, Act V Of 1898 :-**

After section 251 of the said Code, the following new section shall be inserted, namely:---

"251-A. Supply of copies of statements of section 161 to the accused.- In all cases instituted upon police report, except those tried summarily, copies of statement of all witnesses recorded by the police under section 161 and of the inspection note recorded by an investigation officer on his first visit to the place of occurrence, shall be supplied to the accused seven days before the commencement of the trial free of cost:

Provided that if any part of statement recorded under section 161 is such that its disclosure to the accused would be inexpedient in the public interest, such part of the statement shall be excluded

from the copy of the statement furnished to the accused".

#### **4. Amendment Of Section 256 Of Act V Of 1898 :-**

In the said Code in section 256, for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) If the accused refuses to plead, or does not plead, or claims to be tried, the evidence of any remaining witnesses for the prosecution shall be taken, and the accused shall then be called upon to enter upon his defence and produce his evidence".

#### **5. Amendment Of Section 257 Of Act V Of 1898 :-**

In the said Code, in section 257, for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) If the accused, after he has entered upon his defence, applies to the magistrate to issue any process for compelling the attendance of any witness, other than a witness whom the accused has cross-examined, for the purposes of examination or the production of any document or other thing, the magistrate shall issue such process unless he considers that such application should be rejected on the ground that it is made for the purpose of vexation or delay or for defeating the ends of justice. Such ground shall be recorded by him in writing."

#### **6. Substitution Of Section 268 Of Act V Of 1898 :-**

In the said Code, for section 268, the following section shall be substituted, namely:-

"268. Trial before Court of Session.- All trials before a Court of Session shall be either by Jury or by the Judge himself."

#### **7. Amendment Of Section 269 Of Act V Of 1898 :-**

In the said Code, in section 269, in sub-section (3) for the words "with the aid of the jurors as assessors" the words "without any jury" shall be substituted.

#### **8. Amendment Of Section 272 Of Act V Of 1898 :-**

For section 272 of the said Code, the following shall be substituted, namely:-

"272. Refusal to plead or claim to be tried.- If the accused refuses to plead, or does not plead, or claims to be tried, the Court shall,-

(a) in a case triable by jury, proceed to choose jurors as hereinafter provided and to try the case, and  
(b) in any other case, proceed to try the case without any jury:  
Provided that in cases triable by jury the same jury may, subject to the right of objection hereinafter mentioned, try as many accused persons successively as the Court thinks fit."

**9. Omission Of Sub-Head "D" And Sections 284 And 285 Of Act V Of 1898 :-**

In the said Code, sub-head "D-Chosing Assessors" occurring after section 283, and sections 284 and 285 shall be omitted.

**10. Amendment Of Section 286 Of Act V Of 1898 :-**

In section 286 of the said Code, in sub-section (1), for the words "when the jurors or assessors have been chosen" the words and commas "when, in a case triable by jury, the jurors have been chosen, and in any other case, the Court is ready to hear the case" shall be substituted.

**11. Amendment Of Section 289 Of Act V Of 1898 :-**

In section 289 of the said Code, for the words "with the aid of assessors" twice occurring, the words "without any jury" shall in both places be substituted.

**12. Amendment Of Sections 293, 294 And 295 Of Act V Of 1898 :-**

In sections 293, 294 and 295 of the said Code, the words "or assessors" or the words "or assessor" wherever occurring shall be omitted.

**13. Amendment Of Sub-Head "H" And Section 309 Of Act V Of 1898 :-**

In the said Code, for the sub-head "H-Conclusion of Trial in Cases tried with Assessors" and section 309, the following shall be substituted, namely:-

"H-Conclusion of Trial in cases tried without Jury-

309. Judgement in cases tried without jury.- In a case tried without a jury, the Judge shall, after the conclusion of the case for the defence and the prosecutors reply, if any, give judgment and

shall,-

(a) if he finds the accused not guilty, record an order of acquittal; and

(b) if he finds the accused guilty and does not proceed in accordance with the provisions of section 562, pass sentence according to law".

#### **14. Amendment Of Section 310 Of Act V Of 1898 :-**

In section 310 of the said Code,-

(1) for the words "in the case of a trial by jury or with the aid of assessors when" the word "where" shall be substituted;

(2) in clause (a), in sub-clause (ii), for the words and comma "the jury have delivered their verdict, or the opinions of the assessors have been recorded", the words and comma "in a case tried by jury, the jury have delivered their verdict" shall be substituted; and

(3) in clause (b), for the words "with the aid of assessors" the words "without a jury" shall be substituted.

#### **15. Amendment Of Sub-Head "K" And Sections 319, 320, 321, 324 And 326 To 332 Of Act V Of 1898 :-**

In the sub-head K after section 318, and in sections 319, 320, 321, 324, 326, 327, 328, 329, 330, 331 and 332 of the said Code, the words, and the words and commas, "and assessors", "and assessors", "or assessor", "or assessors", "or as an assessor", "or as an assessor", "and trials with the aid of assessors" and "or assessor, as the case may be", wherever any of them may occur, shall be omitted.

#### **16. Amendment Of Section 339-A Of Act V Of 1898 :-**

In section 339-A of the said Code, in sub-section (2), for the words "with the aid of the assessors" the words "trying the case without a jury" shall be substituted.

#### **17. Amendment Of Section 350 Of Act V Of 1898 :-**

In section 350 of the said Code, in sub-section (1), in the proviso, clause (a) shall be omitted.

#### **18. Amendment Of Section 375 Of Act V Of 1898 :-**

In section 375 of the said Code, in sub-section (2), the words "or

assessors" shall be omitted.

**19. Amendment Of Section 376 Of Act V Of 1898 :-**

In section 376 of the said code, the words and comma "whether tried with the aid of assessors or by jury" shall be omitted.

**20. Amendment Of Section 428 Of Act V Of 1898 :-**

In section 428 of the said Code, in sub-section (3), the words "or assessors" shall be omitted.

**21. Amendment Of Section 465 Of Act V Of 1898 :-**

In section 465 of the said Code, in sub-section (1), for the words "or the Court with the aid of assessors" the words and commas "or where the trial is to be held without a jury, the Court," shall be substituted.

**22. Amendment Of Section 536 Of Act V Of 1898 :-**

For section 539 of the said Code, the following section shall be substituted, namely:-

"536. Trial without jury of offence triable by the jury---where an offence triable by jury is tried without any jury, the trial shall not on that ground alone be invalid, unless the objection was taken before the Court proceeded to record the evidence in the case."

**23. Amendment Of Section 537 Of Act V Of 1898 :-**

In section 537 of the said Code-

(1) in clause (a), in between the word "complaint", and the word "summons" the words, figures and comma "reported by a Police Officer under section 173," shall be inserted;

(2) after clause (a), as so amended, the following clause shall be inserted as clause (b), namely:-

"(b) of any error, omission or irregularity in the charge or mode of trial including any misjoinder of charges, or"; and

(3) in clause (c), the words "or assessors" shall be omitted.

**24. Amendment Of Section 539-B Of Act V Of 1898 :-**

In section 539-B of the said Code, in sub-section (2), in the proviso, the words "or with the aid of assessors" and the words "or assessors" shall be omitted.

**25. Amendment Of Second Schedule Of Act V Of 1898 :-**

In the Second Schedule to the said Code, in the entries against section 500-

- (i) in column 3, for the words "shall not", the word "may" shall be substituted; and
- (ii) in column 7, for the word "simple", the word "rigorous" shall be substituted.