

**GOVERNMENT OF North-West Frontier
Province LAW DEPARTMENT**



**THE FRONTIER CRIMES
REGULATION, 1901 (REGULATION III OF 1901)**

(As modified upto 31st October, 1971)

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THE FRONTIER CRIMES REGULATION, 1901

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THE FIRST SCHEDULE

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REGULATION NO. III OF 1901

THE FRONTIER CRIMES REGULATION, 1901

A
REGULATIONS

*Further to provide for the suppression of crimes
In certain frontier districts.*

WHEREAS it is expedient further to provide for
the suppression of crime in certain frontier districts:
it is hereby enacted as follows:

CHAPTER 1

PERLIMINARY

1. (1) This Regulation may be called the Frontier
Crimes Regulation, 1901: and

(2) It shall come into force at once.

(3) It shall extend to the areas specified in the Third
schedule, but the Governor may, by notification in the
official Gazette, exempt any such area from the operation of
all or any of its provisions. *Short title,
commencement
and extent*

(4) Section 1 to 5,10, 20,21,26 to 28,31,32,36,37, 56
and 60 to 61 are of general applications, but the re-maining
sections may be enforced, in whole or in part, as the ease
may be, only against Pathans and Biluchis,and against such
other classes as the 2[Provincial Government] 3 ***, may, by
notification in the 4[Official Gazette], declare to be subject
thereto.

(5) A notification under subsections (4) may declare a
specified class only to be subject to all or any of the provisions of
these regulations in a district or part of a district.

-
1. Sub1. By West Pakistan Ordinance XLIII of 1963. S.2, for subsections (3) and (1) which were earlier subs. By Central Ordinance VIII of 1962, for the original subsection (3).
 2. Sub2. For "Local Government" by the A.O 1937.
 3. The words "with two previous sanctions of the Governor General in Council" omitted.
 4. Sub3. For "Local Official Gazette".

Explanation.- The word “class”, as used in sub-sections (4) and (5) includes any persons who may be collectively described in a notification under this section as persons subject to all or any of the provisions of this Regulation.

Definitions. 2. In this Regulation unless there is anything repugnant in the subject or context,

¹[(a) “Council of Elders” means

(i) in relation to Quetta and Kalat Division and District Lasbella,
a Council of three or more persons convened according to the
Pathan, Biluch or other usage, as the Deputy Commissioner
may in each case direct; and

(ii) in relation to other areas, a Council of three or more persons whether officials or otherwise convened by the Deputy Commissioner and presided over by a Magistrate invested with powers under section 30 of the Code of Criminal Procedure, 1898(V of 1898);] and

(b) “Deputy Commissioner” includes any Magistrate of the first
class appointed by the Deputy Commissioner by order in
writing to exercise all or any of the functions or powers specified in the first part of the first Schedule and also any Magistrate appointed by the ²[Provincial Government] to exercise all or any of such functions or powers.

³[(c) “Commissioner” or “Court of the Commissioner” means the Provincial Government or such officer or officers as the Provincial Government may appoint in this behalf.]

3. (1) The provisions of this Regulation shall take effect in case to which they apply, notwithstanding any thing in any other enactment.

(2) The Powers conferred by this Regulation may be exercised in addition to any powers conferred by or under any other enactment, and, where the contrary is not expressed or implied, other enactments in force in any place in which all or any of the

1. Subs. for cl(a) by W.P.Ord. XII of 1962

2. Subs. for “Local Government” by the A.O 1937

3. Added by W.P. Ord. XII of 1962, 8.2

Provisions of this Regulation are for the time being in force shall, so far as may be, apply to cases dealt with in that place under this Regulation.

CHAPTER II

POWERS OF COURTS AND OFFICERS

4. (1) In any district in the whole or any part of which all or any of the provision of this Regulation are for the time being in force, the ¹[Provincial Government] may appoint any Magistrate or Magistrates of the first class to be an Additional District Magistrate or Additional District Magistrates, without any limit of time.

*Additional
District
Magistrate*

(2) Every Additional District Magistrate so appointed shall have all the ordinary powers of a District Magistrate specified in the fifth part of the third schedule to the Code of Criminal Procedure, 1898.

(3) When exercising any of the powers of a Deputy Commissioner under this Regulation, an Additional District Magistrate shall be deemed, for the purposes of this Regulation to be the Deputy Commissioner.

(4) Every Additional District Magistrate shall exercise his powers in subordination to the District Magistrate and in such cases or classes of cases, and within such local limits as the District Magistrate may, by order in writing, direct.

5. (1) The District Magistrate may withdraw any case from or recall any case which he has made over to, an Additional District Magistrate, whether the Additional District Magistrate is exercising Jurisdiction with respect to the case as a Magistrate or as a Deputy Commissioner.

*Power of
District
Magistrate to
with draw or
recall cases*

(2) If the case may, under the Code of Criminal Procedure 1898, be referred to another Magistrate competent to inquire into or try it, the District Magistrate may, instead of disposing of the case himself, refer it to such other Magistrate for inquiry or trial as the case may be.

6. Where any person against whom, under section I, sub Section (4), this section may for the times being be enforced is convicted by a Criminal Court of an offence punishable under any of the following sections of the 2 Indian Penal Code, namely sections 304,307,324,325,326,376,377,382,392, to 399,427,428,429,

*Power to pass
sentences of
whipping in
certain cases*

1. Subs. for "Local Government" by the A.O, 1937
2. Now the Pakistan Penal Code, 1860

435, 436 and 448 to 460, the Court may, subject to the provision of section 393 of the code of Criminal Procedure, 1898, pass upon him a sentence of whipping in addition to any other punishment to which he may be sentenced.

*Tender of
Pardon to
accomplices*

¹ [7. Section 337 of the Code of Criminal Procedure 1898 shall for the purposes of this Regulation be construed as if:-

*V of
1898*

(a) The words in sub section (1) “ tribal exclusively by the High Court or Court of Session of any offence punishable with imprisonment which may extent to ten years or any offence punishable with in dev section 211 of the 2 Indian Penal Code with imprisonment which may extend to seven tears or any offence under any of the following sections of the 2Indian Penal Code, namely, sections 216 A, 369, 401, 435, and 477AA” and

*XLV of
1860*

(b) the whole of sub-section(2-A) were omitted.

CHAPTER III

Council of Elders

*Civil references
to Council of
Elders*

8. (1) Where the Deputy Commissioner is satisfied from a police report or other information that a dispute exists which is likely to cause a blood-feud or murder, or culpable homicide not amounting to murder, or mischief or a breach of the peace, or in which either or any of the parties belongs to a frontier tribe he may, if he considers that the settlement thereof in the manner provided by this section will tend to prevent or terminate the consequences anticipated and if a suet is not, pending in respect of the dispute, make an order in writing, stating the grounds of his being so satisfied, referring the dispute to the Council of Elders, and requiring the council to come to a finding on the matters in dispute after making such inquiry as may be necessary and after hearing the parties. The members of the Council of Elders shall, in each case, be nominated and appointed by the Deputy Commissioner.

1. Sub 1. by Regulation VII of 1926

2. Now the Pakistan Penal Code.

(2) The order of reference made under subsection shall state the matter or matters on which the finding of the Council of Elders is required.

(3) On receipt of the finding of the council of Elders under this section the Deputy Commissioner may,

- (a) Remand the case to the Council for a further finding: or
- (b) Refer the case to a 2nd Council: or
- (c) Refer the parties to Civil Court: or
- (d) Pass a decree in accordance with the finding of the council, or of not less than three fourth of the members thereof, on any matter stated in the reference: or

(e) Declare that further procedure under this section is not required.

9. A decree passed under section 8 subsection (2) clause (d), shall not give affect to any finding or part of finding which, in the opinion of the Deputy Commissioner is contrary to good conscience or public policy, but shall

Effect of decree on finding of

(a) be a final settlement of the case so far as the decree relates to any matter stated in the reference, although other matters therein stated may remain indisposed of: and

(b) have, to that extent and subject to the provisions of this Regulation with respect to revision, the same effect as a decree of a Civil Court of ultimate resort, and be enforced by Deputy Commissioner in the same manner as a decree of such a Court may be enforced.

10. No civil court shall take cognizance of any claim with respect to which the Deputy Commissioner has proceeded under section 8, subsection (3), clause (a), clause (b) or clause (d).

Restriction on jurisdiction of Civil Courts

11. (1) Where, in the opinion of the Commissioner or Deputy Commissioner it is inexpedient that the question of the guilt or innocence of any person or persons accused of any offence, or of any several persons so accused, should be tried by a Court of any of the classes mentioned in section 6 of the Code of Criminal Procedures, 1898. The Deputy Commissioner may or if the Commissioner so directs, shall, by order in writing, refer the question to the decision of a

Criminal references to Council of Elders

Council of Elders, and require the Council to come a finding on the question after such inquiry as may be necessary and after hearing the accused person. The members of the Council of Elders shall, in each case, be nominated and appointed by the Deputy Commissioner.

(2) where a reference to a Council of Elders is made under subsection (1) and the members of the Council have been nominated, the names of the members so nominated shall as soon as may be communicated to the accused person and any objection which he may then make to the nomination of any such member shall be reordered. The Deputy Commissioner shall consider every objection made by accused person under this sub section and may in his discretion, either accept or reject the objection provided that in the latter case he shall record his reasons for so doing. The Deputy Commissioner shall after disposing of any objection made by the accused person, appoint the members of the Council.

(3) On receipts of the finding of the Council of Elders under this section the Deputy Commissioner may,

- (a) remand the question to the council for a further finding or
- (b) refer the question to a second council or
- (c) acquit or discharge the accused person or persons or any of them; or
- (d) in accordance with the finding on any matter of fact of the Council or of not less than three fourths of the members thereof ,convicts the accused person or persons or any of them, of any offence of which the facts so found show him or them to be guilty:

Provided that a person discharged under clause(c) shall not be liable to be retired for any offence arising out of the same facts after the expiry of two years from the date of such discharge

*Punishment
on
conviction
on finding
of Council*

12. (1) where the Deputy Commissioner convicts a person under section 11, sub- Section (3), clause (d) he may pass upon him any Sentence of fine.

(2) Where the Deputy Commissioner so convicts a person of an offence mentioned in the second Schedule, he may whatever may be the punishment prescribed for the offence sentence the person in lieu of or in addition to fine, to be imprisoned for a term which may extend to seven years or subject to the provisions of section 393 of the Code of Criminal Procedure. 1898 to be whipped and imprisoned for a term which may extend to five years or to be transported for a term which may extent to seven years where he so convicts a person of an offence punishable with transportation or with imprisonment for a term exceeding seven years he may subject to confirmation by the Commissioner sentence the person to a term either of transportation or of imprisonment exceeding seven years but not exceeding fourteen years:

XLV of 1860 Provided first that a sentence of whipping shall not be passed on any person so convicted of an offence under sections 121,121A,122,123,121A,125,126,127,141,150,216,216A,400,401,402,494, or 195 of the “Indian Penal Code”:

Provided, secondly that a sentence of transportation or imprisonment for an offence shall not be for a longer term than that (if any) prescribed for the offence: and

Provided thirdly that a sentence of transportation shall not be passed for an offence which is not punishable with transportation or with imprisonment for a term which may extend to seven years or more.

XLV of 1860 ²[(3) in cases of convictions under section 302 or 396 of Pakistan Panel Code the immoveable property of the accused shall be liable to forfeiture to the Government]

V of 1898 13. (1) any sentence passed under section 12 shall be executed in the manner provided for the execution of sentences passed by a Court of any of the classes mentioned in section 6 of the Code of Criminal Procedure 1898.

Manner of enforcing sentences

XLV of 1860 (2) for the purposes of sections 61 to 67 of the Indian Penal Code in reference to a sentence under section 12 of this Regulation.

(a) an offence punishable with death or transportation for life shall be deceived to be punishable with rigorous imprisonment for a term which may extend to ten years;

-
1. New the Pakistan Penal Code
 2. Added by W.P.O xd. XII of 1962

- (b) The imprisonment in default of payment of fine may be rigorous or simple at the discretion of the Deputy Commissioner.

14. The powers conferred by section 11 on the Commissioner and Deputy Commissioner respectively may be exercised by them in cases committed to the Court of session at any time before the trial before that Court any Court interior to the Court of Session at any time before an order has commended and in cases pending before of conviction or acquittal has been made.

Time for exercising power of reference to Council of Elders

15 (1) In any trial before a Court of Session the Public Prosecutor may, when instructed in writing in that behalf by the Commissioner or Deputy Commissioner at any time before an order of conviction of acquittal has been made with respect to any accused person withdraw from the prosecution of such person in order that the case may be referred to a Council of Elders.

Motion by Public Prosecutor in view to reference to Council of Elders

(2) The Sessions Judge shall thereupon stay proceedings with respect to such person and the Deputy Commissioner shall refer the case to a Council of Elders.

16. The powers conferred by section 11 as limited by section 14 may be exercised against and the withdrawal of a prosecution under section 15 may have reference to one or some only of two or more persons jointly accused of an offence.

Case of Persons jointly accused of an offence

17. The Deputy Commissioner may, if he thinks fit at any time reconsider and set aside any order of the Deputy Commissioner under his Regulation.

Powers to set aside orders making or refusing to make references to Council of Elders

- (a) directing reference to a Council of Elders or
- (b) refusing to make such a reference.

18. (1) where a Council of Elders to which a reference has been made under this Regulation makes any recommendation to which effect might be given if it were a finding on a matter or question referred to the Council under this Regulation, the Deputy Commissioner may if the recommendation effects a person mentioned in the order of reference and is relevant to the matter or question actually referred deal with the recommendation or any part of it as if it were a finding under section 8 or section 11:

Recommendation of Council of Elders

Provided that no decree or sentences may be passed on any such recommendation as aforesaid against any person who has not had the claim or charge fully explained to him and been given an opportunity of entering upon his defence in regard thereto.

(2) Where the Deputy Commissioner deals with a recommendation under sub-section (I), he may pass any such decree as is authorized by section 8, or any such sentences as is authorized by section 12, sub-section (I), and the decree or sentences shall have the same effect and be enforced in the same manner as if it were a decree or sentence passed under section 8 or section 12, sub-section (I), as the case may be.

19. (1) Where the Deputy Commissioner passes, under this Chapter a sentence of fine exceeding two hundred rupees, or of imprisonment for a term exceeding three months, or of transportation, he shall make a record of the facts of the offence committed and of his reasons for passing the sentence.

*Record of
Deputy
Commissioner*

(2) The record shall be made by the Deputy Commissioner in English and in his own hand, unless for any sufficient reason he is prevented from so making it, in which case he shall record the reason of his inability and shall cause the record to be made from his dictation in open Court.

20. Where a reference is made to a Council of Elders under this Chapter, the Deputy Commissioner may exercise all or any of the powers conferred by the Code of Civil Procedure and the Code of Criminal Procedure, 1898, respectively, as the case may be for the purpose of compelling the attendance, before himself or the Council of Elders, of the parties, and witnesses, or any of them, in any case and at any stage of the proceedings.

*Attendance of
parties and
witnesses before
Deputy
Commissioner
Council of
Elders*

1. See now the Code of Civil Procedure, 1908 (V of 1908)

CHAPTER IV.**PENALTIES.**

*Blockade of
hostile or
unfriendly
tribe*

21. In the event of any frontier tribe or of any section or members of such tribe, acting in a hostile or unfriendly manner towards the British Govt. or towards persons residing within British India, the Deputy Commissioner may with the previous sanction of the Commissioner by order in writing direct.

(a) the seizure, wherever they may be found, of all or any of the members of such Tribe and of all or any property belonging to them or any of them:

(b) the detention in safe custody of any person or property so seized and:

(c) The confiscation of any such property: and many with the like sanction by Public proclamation:

(d) debar all or any member of the tribe from all access into 'British India: and

(e) prohibit all or any persons with in the limits of British India from all Intercourse or communication of any kind what so ever or of any specified kind or kinds with such tribe or any section or members thereof.

*Fines on
communities
accessory
crime*

22. Where, from the circumstances of any case there appears to be good reason to believe that the inhabitants of any village, or part of a village or any of them have

(a) connived at ,or in any way abetted the commission or an offence; or

(b) failed to render all assistance in their power to discover the offenders or to effect their arrest: or

(c) connived at the escape of , or harbored any offender or person suspected of having taken part in the commission of an offense: or

(e) combined to suppress material evidence of the commission of an offense;

The Deputy Commissioner may, with the pervious sanction of the Commissioner, impose a fine on the inhabitants of the village or a such village or part of a village, or any of them as whole.

23. Where, within the area occupied by a village community or part of a village community, a person is dangerously or fatally wounded by an unlawful act or the body of a person believed to have been lawfully killed, the members of the village community or part thereof shall be deemed to have committed an offence under section 22 unless the headman of the village-community or part thereof can show that the members thereof

Fines on communities where murder or culpable homicide is committed or attempted

(a) had not an opportunity of preventing the offence or arresting the offender: or

(b) have used all reasonable means to bring the offender to justice.

24. Fines imposed under section 22 shall, in default of payment, be recoverable as if there were arrears of land revenue due by the members of the community or part thereof upon whom the fine is imposed.

Recovery of fines

25. Where a village community or part of a village community has become liable to fine under section 22, shall further be liable to forfeit, in whole or any part and for a term or in perpetuity, any remission of land revenue of which it may be in joint enjoyment and the members of the village community or part thereof, as the case may be, shall in like manner be liable severally to forfeit any assignment or remission of land, revenue or allowance paid out of public funds which they or any of them may enjoy.

Forfeiture of remissions of revenue etc, in the case of communities and persons accessory to crime

26. Where it is shown to the satisfaction of the Deputy Commissioner, that any person who is in the enjoyment of an assignment or remission of land revenue or allowance payable out of public funds has been guilty of a serious offence or has colluded with or harbored a criminal or has suppressed material evidence of the commission of any offence or has failed, on the investigation of any criminal case, to render loyal and proper assistance to the authorities to the best of his ability, the Deputy Commissioner may in addition to any other penalty to which such person may be liable under any law for the time being in force, direct the forfeiture, in whole or in part and for a term or in perpetuity of such assignment or remission of land revenue or allowance, as the case may be.

Forfeiture of remissions of revenue etc, in the case of communities and persons accessory to crime

Explanation--- For the purposes of this section the expression “serious offence” means any offence punishable with transportation or with imprisonment for a term which may extend to three years or more.

27. Forfeiture under section 25 or section 26 may be adjusted by order of the Deputy Commissioner for a term which may extend to three years, and by order of the Commissioner for any longer term or in perpetuity. *Powers to direct forfeiture*
28. Nothing in section 25, 26 and 27 shall affect the powers of the ¹[Provincial Government] with respect to the grant, continuance or forfeiture, in whole or in part, of any assignment or remission of land-revenue or of any allowance paid out of public funds. *Powers of Provincial Government a ved*
29. Where a person is found carrying arms in such manner or in such circumstances as to afford just grounds of suspicion that the arms are being carried by him with intent to use them for an unlawful purpose, and that person has taken precautions to elude observation or evade arrest, or is found after sunset and before sunrise within the limits of any military camp or cantonment or of any municipality, he shall be punishable with fine, or with both, and the arms carried by him may be confiscated. *Preparation to commit certain offence*
30. (1) A married woman who, knowingly and by her own consent, has sexual intercourse with any man who is not her husband, is guilty of the offence of adultery, and shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both. *Adultery*

²[(2) Cognizance shall not be taken of an offence under this section unless a complaint has been made by the husband of the women, or, in his absence, by a person who had care of the women on his behalf at the time when the offence was committed.]

1. Subs for “Local Government” by the A.O, 1937

2. Sub-section (2) omitted in its application to the Districts of Peshawar, Kohat, Hazara, Bannu, Mardan and Dera Ismail Khan, by the West Pakistan Ordinance XII of 1962.

CHAPTER V

PREVENTIVE AND OTHER AUTHORITY
AND JURISDICTION

31. (1) No new hamlet, village- habitation, tower or walled enclosure shall, without the previous sanction in writing of the commissioner, who may either grant or refuse such sanction as he thinks fit, be erected at any place within five miles of the frontier of British India. *Power to prohibit erection new villages or towers on frontier*
- (2) Where the Commissioner refuses to sanction the erection of any such hamlet, village-habitation, tower or walled enclosure, as the case may be, he shall record his reasons for so doing.
32. Where it is expedient on military grounds, the ²[Central Government] may, by order in writing, direct the removal of any village situate in close proximity to the frontier of ¹British India to any other site within five miles of the regional site, and award to the inhabitants such compensation for any loss which may have been occasioned to them by the removal of their villages as, in the opinion of the ²[Central Government], is just. *Power to direct removal of villages*
33. (1) No building of the kind commonly known as “hujra” or “chauk” and no building intended to be used as “hujra” or “chauk” shall be erected or built, and no existing building not now used as a “hujra” or “chauk” shall at any time be used as such, without the previous sanction in writing of the Deputy Commissioner. *Regulation of hujras and chuaks*
- (2) Whoever contravenes the provisions of sub-section (1) shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.
34. (1) Where the Deputy Commissioner is satisfied that any building is habitually used as a meeting place by robbers, house breakers, thieves or bad characters or for the purpose of gambling, he may, by order in writing, prohibit the owner or occupier thereof from so using such building, and, if the order is not obeyed, *Demolition of buildings used by robber etc.*

1. See foot-note I.P. IO supra

2. Subs. For “Local Government” by the A.O, 1937

may by alike order, direct that building be demolished. Such further order shall be without prejudice to any punishment to which the owner or occupier of such building may, under any law for the time being in force, be liable for disobedience of the prohibitory order.

2. No person shall be entitled to any compensation in respect of the demolition of any building under sub-section (I).

35. (1) where in the opinion of the Deputy Commissioner, the custom of providing for watch and ward exist by what are commonly known as “naubati chaukadars” exists in case of any village. community and the village community or any part thereof fails to provide for the due performance of such service or any member of the village community fails to perform his duty of watch and ward according to customary rotation in respect of such duties, the Deputy Commissioner may impose a fine, which ,may extend to one hundred rupees in any one case, upon the village community or part or member thereof so failing as aforesaid.

*Naubati
Chowkidari
System*

(2) The Provision of section 24 shall be applicable to the recovery of fines imposed on any village community or part thereof under this section.

(3) Where such custom as aforesaid is not existed or has fallen into disuse in any village community, the Deputy Commissioner may, with the previous sanitation of the Commissioner, by order in writing, direct its introduction or revival, as the case may be, and there upon the provision of subsection (I) shall apply in respect of the village community.

36. Where, in the opinion of the Deputy Commissioner, any person,

- a) is a dangerous fanatic: or
- b) belongs to a Frontier tribes and has no ostensible means of subsistence or cannot give a satisfactory account of himself; or
- c) has a blood feud: or
- e) has occasioned cause of quarrel likely to lead to blood shed:

*Powers to
require
persons to
remove in
certain
cases*

The Deputy Commissioner may, by order in writing require him to reside beyond the limits of the territories to which this regulation extends or at such place with in the said territories as may be specified in the order:

Provided that, if the person has fixed habitation in the place which the deputy Commissioner requires him to leave, an order under this section shall not be made with out the previous sanction of the Commissioner.

37. Whoever contravenes the provisions of section 31,or disobeys an order under section 21,or section 32,or a prohibition under section 34,or requisition under section 36,shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine which may extend to one thousand rupees.

Penalty for breach of certain orders

38. In any place in which all or any of the provisions of this Regulation are for the time being in force.

Powers of arrest

(i) any private person may, with out an order from a Magistrate and with out warrant, arrest or cause to be arrested and make over or cause to be made over to a police officer or take a cause to be taken to the nearest police station .any person who has been concerned in any cognizable offence or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been so concerned:

and

(ii) Section 48 of the Code of Criminal Procedure 1898 shall be read as if the following sub section were added thereto namely:

4. But this section gives a right to cause the death of a person against whom those portion of the Frontier Crimes Regulation 1901which are not of general application may be enforced.

(a). if he is committing or attempting to commit an offence or resisting or evading arrest, in such circumstance as to afford reasonable ground for believing that he intends to use arms to effect his purpose: and

(b). if a hue and cry has been raised against him of his having been concerned in any such offence as is specified in clause (a) or of his committing or attempting to commit an offence or resisting or evading arrest in such circumstances as or referred in the said clause.

XIV
1860 39. (1) where there is reason to believe that a person has committed or attempted to commit an offence punishable under section 498 of the Indian Panel Code, an officer in charge of a police station may with out an order from a Magistrate and with out a warrant, arrest that person on the requisition of the husband of the woman or in his absence of a person having the care of her, on his behalf or in the absence of both, the husband and any such person as last aforesaid from the village in which the woman resides, on the requisition of the head man of village.

*Arrest
without
warrant in
cases under
section
498, Indian
Penal Code*

(2) A police officer making an arrest under such section (1) shall, without unnecessary delay take or send the person arrested to the nearest Magistrate having jurisdiction.

(3) The Magistrate may, in default of bail being furnished to his satisfaction, detain the person arrested for such period not exceeding 15 days as may be necessary to enable the husband or in his absence a person who had care of the woman on his behalf to make a complaint.

40. (1) Where the Commissioner or the Deputy Commissioner is of opinion that it is necessary for the purpose of preventing murder or culpable homicide not amounting to murder or the dissemination of seditious matter to require a person to execute a bond, for good behavior or for keeping the peace, as the case may be, he may order the person to execute a bond with or with out sureties for hi good behavior or for keeping the peace as the case may be during such period not exceeding three years as Commissioner or the Deputy Commissioner as the case may be, may fix.

*Security and
surveillance for
the prevention of
murder or
culpable homicide
or the
dissemination of
seditious
matter*

(2) The Deputy Commissioner may make an order under sub section (1)

(a) on the recommendation of a Council of Elders or

(b) after inquiry as hereinafter provided.

¹[(2-A)] Pending the completion of an enquiry for the purpose of subsection (2) the deputy Commissioner may if he considers that immediate measures are necessary for preventing any offence referred to in sub section (1) direct the person in respect of whom the inquiry is to held, to execute a bond with or with out sureties for keeping the peace or maintaining good behavior for a period not exceeding one month and detain him in custody till such bond executed.

(3) where a person has been convicted in accordance with the finding of a Council of Elders of an offence mentioned in section 106 of Code of Criminal Procedure 1898 or punishable under section 302, section 304, section 307 or section 308 of the Indian Panel Code, the Deputy Commissioner at the time of passing the sentence or the Commissioner at the time of revising the sentence, may make an order under sub section (1) with respect to that person.

(4) Where the Deputy Commissioner makes an order under sub section (I) on the recommendation of a Council of Elders, he shall record his reasons for acting on the recommendations.

(5) Where the Commissioner or Deputy Commissioner is of the opinion that sufficient grounds exist for making an order under sub section (1).he may, either inline of or in addition to such order by order in writing direct the person concerned shall notify his residence and any change of residence in the manner described by section 565 of the Code of Criminal Procedure 1898.during such term not exceeding three years, as may be specified in the order.

1. Sub section (2-A) of section 40 ins, by W. P . Ord: XXXVII of 1963, S.2 shall apply to Quetta and Kalat Divisions only.

2. Now the Pakistan Penal Code.

41. where a blood feud or other cause of quarrel likely to lead to bloodshed exists or in the opinion of the Deputy Commissioner is likely to arise between two families or factions the Deputy Commissioner may on the recommendation of Council of Elders or after inquiry as hereinafter provided, order all or any of the members of both families or factions or of either family or factions, to execute a bond with or without sureties for their good behavior or for keeping the peace as the case may during such period not exceeding three years as he may fix.

*Security
from
families or
factions in
case of
blood-feud*

42. (1) in an inquiry for the purpose of section (40) sub section (2) or section 41 may be conducted so far as may be necessary, out of Court:

*Procedure
in inquiry*

Provided that a person from whom it is proposed to require a bond under section 40 or the principal members of a family or factions from which it is proposed to require a bond under section 41 shall be given an opportunity of showing cause in Court why a bond should not be required and of having his or their witnesses examined there and of cross examining any witness not called by himself or themselves who may testify there to the necessary or otherwise for the execution of a bond.

(2) Sections 112,113,115and 117 of the Code of Criminal Procedure 1898 shall not apply to an inquiry under this section but the Deputy Commissioner shall record his order with the reasons for making it.

43 (1) A bond executed under section 40 shall be liable to be forfeited if the person bound thereby to be of good behavior or to keep the peace as the case may be, commits or attempts to commit, or abets the commission of any offence punishable with imprisonment.

*Breach of
Bond*

(2) A bond executed under section 41, shall be liable to be forfeited, if the person bound thereby to be of good behavior or to keep the peace as the case may be, commits or attempts to commit or abets the commission of any offence punishable with imprisonment in respect of any member of the opposite family or faction to which the bond related.

(3) If, while a bond executed under section 41 is in force, the life of any member or either family or faction is unlawfully

taken or attempted, the Deputy Commissioner may declare the bond of all or any of the members of the family or faction and their sureties (if any) to be forfeited, unless it is shown to his satisfaction that the homicide or attempt was not committed by, or in consequence of the abetment of, any member of that family or faction.

44. (1) Where a person ordered to give security under section 40; or section 41, does not give security on or before the date on which the period for which the security is to be given commences; he shall be committed to prison, or, if he is already in prison, be detained in prison until that period expires, or until within that period he furnishes the required security.

*Imprisonment in
default of
security*

(2) Imprisonment for failure to give security under this chapter may be rigorous or simple as the office requiring the security directs in each case.

45. Where a person as suffered imprisonment for three years for failure to give security under section 40 or section 41, he shall be released and shall not again be required to give security unless a fresh order is passed in accordance with the provision of this chapter or of the Court of Criminal Procedure, 1898.

*Length of
imprisonment*

46. (1) Where a person has, under the provision of this Chapter, given security or been imprisoned for failure to give security, he may be brought before the Deputy Commissioner, if, on the expiry of the period for which security was required to be given, the Deputy Commissioner so directs.

*Further
Security*

(2) Where the Deputy Commissioner thinks it necessary, for the purpose of preventing bloodshed, to require security for further period from any person so brought before him, he shall record proceeding to that effect.

(3) The proceedings may be founded on the facts on which the original order to give security was founded, and it shall not be necessary to prove any fresh facts to justify an order to give security for a further period under this section, but such in order, if paused, shall have the same effect and be enforced in the same manner as an original order to give security under section 40 or section 41.

(4) Notwithstanding anything in this section, no person shall suffer, for failure to give security under this Chapter, continuous imprisonment for more than six years or, without the sanction of the Commissioner, for more than three years.

47. (1) Where within the territories in which all or any of the provisions of these regulations are for the time being in force, it is found necessary or expedient to take security under this Regulation from Pathans or Biluchis or any other classes against whom all or any of the provisions of section 40 to 46 may for the time being be enforced, the provisions of chapter VIII and XLII of the Code of Criminal Procedure, 1898, shall be read as if for the words "High Court", "Court of Sessions" and "Session Judge" wherever they occur, the word Commissioner were substituted, and all the references to any such Courts shall be deemed to refer to the Court of the Commissioner.

*Modified
applications
of chapter
VIII & XLII,
Act V of 1898*

(2) Subject to the provisions of sub-section (2) of section 42 and sub-section 1 of this section, the provision of the said Chapters of the Code of Criminal Procedures, 1898, shall, so far as they are consistent there with, be applicable to every proceeding under this Chapter relating to the taking of security; but all applications for revision in respect to any proceeding shall be made to, and be disposed off by, the Commissioner.

Chapter VI

APPEAL AND REVISION

48. No appeal shall lie from any decision given, decree or sentence passed, order made, or act done, under any of the provisions of this Regulation.

*Appeal
barred*

49. The Commissioner may call for the record of any proceedings under this Regulation and revise any decision, decree, sentence or order given, passed or made therein.

Revision

50. The Commissioner may in the exercise of his revisional jurisdiction in any criminal proceeding exercise the power to direct tender of pardon conferred by section 338 and any of the powers conferred on an appellate court by section 195, 423, 426, 427 and 428 of the Code of Criminal Procedure, 1898, and may also enhance any sentence,

Powers in exercise of Criminal revisional jurisdiction

Provided that nothing in this Chapter shall be deemed to authorized the Commissioner to set aside the finding of any question of fact of a Council of Elders, where such finding has been accepted by the Deputy Commissioner, unless he is of the opinion that there has been a material irregularity or defect in the proceedings or that the proceedings have been so conducted as to occasion the miscarriage of justice.

51. No sentence shall be passed by the Commissioner in the exercise of his revisional jurisdiction which the Deputy Commissioner could not have passed under this Regulation.

Sentence which may not be passed on revision.

52. Nothing in this Chapter shall be deemed to authorize the Commissioner to vary or set aside any decision, decree or order given, passed or made in any civil proceeding under the Regulation, unless he is of the opinion that there has been a material irregularity or defect in the proceedings or that the proceedings have been so conducted as to occasion a miscarriage or justice or that the decision, decree or order is contrary to good conscience or public policy.

Powers in exercise of civil revisional jurisdiction

53. Where, in the exercise of his revisional jurisdiction in any proceeding under this Regulation, the Commissioner varies or sets aside any decision, decree, sentence or order, he shall record his reasons for so done.

Record of reasons.

¹[54. (1) No officer shall revise any decision, decree, sentence, or order given, passed or made by himself in the capacity of Deputy Commissioner.

(2) Where any such decision, decree, sentence or order is brought to the notice of an officer invested with revisional jurisdiction under this Regulation with a view to the exercise by him of revisional powers, such officer shall report the case to the Provincial Government and it shall be disposed of by the Provincial Government or by any officer, other than the reporting officer, appointed by the Provincial Government.

Procedure where the decision etc, to be revised was given by the officer invested with revisional jurisdiction as Deputy Commissioner

1. Sub. for the original section by W.P. Ord: XII of 1962, s. 5,

55. Every order made by the Commissioner in exercise of his revisional jurisdiction shall be enforced as if it were an order of the Deputy Commissioner or District Magistrate, as the case may be, and the Deputy Commissioner or District magistrate shall do all acts and things necessary to give effect thereto.

Enforcement of orders made on revision

Chapter VII

SUPPLEMENTAL PROVISIONS

56. Where, by a decree passed under section 8 or by a sentence passed under section 12, any person belonging to a frontier tribe becomes liable to pay a fine or other sum of money, the Deputy Commissioner may on the recommendation of a Council of Elders and on satisfying himself that such a course is in accordance with local tribal custom, by order in writing, direct that the amount shall be recovered from the property, movable or immovable, of such of the relatives of fellow tribesmen of the person so liable as may be specified in the order.

Recovery of fines, etc., from relatives of person liable

57. (1) The Deputy Commissioner may make such order as he thinks fit for the disposal of the proceeds of any fine imposed under Section 12, section 18 or 22, and, subject to any order made by the Commissioner under chapter vi, the proceeds shall be disposed of accordingly.

Power of Deputy Commissioners order disposal of certain fines

(2) Where, in pursuance of an order made under subsection 1, a person has received compensation for an injury out of the proceeds of a fine, no Civil Court shall take cognizance of a claim to compensation based on the same injury.

58. Registers shall be kept up, in forms to be approved by the ¹[Provincial Government], of all cases dealt with by the Deputy Commissioner and by the Commissioner under this Regulation.

Maintenance of registers

1. Subs. For "Local Government" by the A.O., 1937.

59. An offence punishable under section 29 or section 30 may be tried by a Court of Session or by the Court of a Magistrate of the first class. An offence punishable under section 37 may be tried by any Magistrate of the first class.

Jurisdiction of ordinary Courts in cases under section 29, 30 and 37

60. Except as therein otherwise provided, no decision, decree, sentence or order given, passed or made, or act done, under Chapter III, Chapter IV, Chapter V or Chapter VI, Shall be called in question in, or set aside by, any Civil or Criminal Court.

Finality of proceedings under Regulation

61. The provisions of section 61, and those of sections 63, 74 of the Indian Penal Code, shall, subject to the provisions section 13 of this Regulation, apply to sentences passed under this Regulation.

Application of provisions of Indian Penal Code respecting fines and imprisonment

62. The ²[Provincial Government] may make 3rules to carry out the purposes and objects of this Regulation.

Power to make rules

⁴[62-A. The ²[Central Government] may make rules for the issue and safe custody of rifles and ammunition for border village defence, and for the imposition and recovery of fines for any breach of such rules.

Power to make rules for the issue and safe custody of rifles and ammunition and for the imposition and recovery of fines

V of 1898 Fines imposed for a breach of the rules made under this section may be recovered in the manner laid down in section 386 of the Code of Criminal Procedure, 1898]

63. No suit or other legal proceeding shall lie against any person for anything done, or in good faith intended to be done, under this Regulation.

64. [Repeal.] Replaced by the Repealing Act, 1938 (I of 1938), section 2 and Schedule I.

Protection for persons acting under Regulation

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1. Now the Pakistan Penal Code.
 2. Subs. For "Local Government" by the A.O 1937
 3. For rules see—
 - (i) N.W.F.P, Gazette, dated the 11th December 1925, Page 1134, and ibid, dated the 30th April 1926, page 457; and
 - (ii) PB. Gazette, 1902 I, Page 635
 4. Ins by Reg. V of 1928, S.,2

THE FIRST SCHEDULE

[See section 2, clause 9 (b)]

PART I – POWERS AND FUNCTIONS WITH WHICH MAGISTRATES OF THE FIRST CLASS MAY BE INVESTED BY DEPUTY COMMISSIONER

- a) In the case of an additional District Magistrate – all or any of the powers and functions of a Deputy Commissioner.
- b) In any other case --- all or any of the following powers, namely:-
 - (i) power to make orders of reference to Councils of Elders under section 8, sub-section (i)
 - (ii) Power to nominate and appoint the members of the Council when an order of reference to a Council has been made under section 8, sub-section (I)
 - (iii) Power to nominate the members of the Council when as order of reference to a Council has been made under section II, sub-section (I);
 - (iv) Power to consider and dispose of objection made by an accused person to members so nominated, and to appoint the member of a Council of Elders under section II, sub-section (2); and
 - (v) Power to take security under section 40.

PART II- Powers AND FUNCTIONS WITH WHICH MAGISTRATES MAY BE INVESTED BY THE 1[PROVINCIAL GOVERNMENT].

- (a) Power to nominate and appoint the members of Council of Elders where an order of reference to a Council has been made under section 8, sub-section (I);

1. Subs. For “Local Government” by the A.O 1937.