

PUNJAB SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS ACT, 1964

1964 : Pb. Act 25 J SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 321 THE PUNJAB SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS ACT, 1964 (PUNJAB Act No. 25 OF 1964) ARRANGEMENT OF SECTIONS Sections Short title, extent and commencement. Amendments to enactments- invalid notifications, orders, Amendments not to render 3. etc., commencement of Act. . Saving. 4 Power to remove difficulties. 5

6. THE SCHEDULE issued before 1964 : Pb. Act 25 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 323 'THE PUNJAB SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS ACT, 1964. (PUNJAB ACT No. 25 OF 1964) (Received The assent of the President of India on the 29th September, 1964, and first published for general information Punjab Government Gazette (Extraordinary), Legislative Supplement, of September 30, 1964. 1 Year 1964 2.5 3 Short title The Punjab Separation of Judicial and Executive Functions Act. •1964 4 Whether repealed or otherwise affected by Legislation Amended by the Haryana Adaptation of Laws "(State and Concurrent Subjects) Order, 19682 Amended by Haryana Act 25 of 19723 ACT to provide for the separation of judicial and executive functions in the State of [Haryana] Beit enacted by the Legislature of the State of Punjab in the Fifteenth year of the Republic of India as follows :— 1. (1) "This Act may be called the Punjab Separation of Judicial and Executive Functions Act, 1964. (2) It extends to the whole of the State of [Haryana]. 2. I. For Statement of Objects and Reasons, see Punjab Government Gazette (Extraordinary). 1964. pages 935-937 _ See Haryana Government Gazette (Extraordinary). dated the 29th October. pages 531-567

3. For Statement of Objects and Reasons. see Haryana Government Gazette (Extraordinary), 1972. page 882. extent and commencement. 324 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS (1964 : Pb. 25 Amendments to enactments. Amendments not to render invalid notifications, orders, etc., issued before (3) _ It shall come into force on such date as the State Government may by notification specify in this behalf; and different dates may be specified for different areas

2. The Central Acts specified in parts I and II of the Schedule appended to this Act (hereinafter called the Schedule) in their application to the State of [Haryana] and the Punjab Acts specified in Part III of the Schedule are hereby amended to the extent mentioned in the fourth column of the Schedule

3. The provisions of this Act which amend any Act specified in the Schedule so as to alter the manner in which , the authority by which, or the law under or in accordance with which, any powers are exercisable, shall, not render invalid any notification, order, commitment, attachment, by-law, rule or regulation, duly made or issued or anything duly done before the commencement of this Act; and any such notification, order, commitment, Saving. attachment, by-law, rule or regulation or thing may be revoked, varied or undone in the like manner, 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 provisions then applicable to such a case. 4. (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 before the date on which the provisions of this Act come into force ; (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. 1. Substituted for the word "Punjab" by the Haryana Adaptation of Laws Order

1968. Act shall come into force with effect from 2nd October, 1964 vid.-' * The Home (Judicial) Department No.G.S.R. 213P.A. 25/64/S. 1/64, dated 1st October, 1964. 1964 : Act 25 | SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 325 and any such investigation, legal proceeding or remedy may be instituted, continued, enforced and any: such penalty, forfeiture or punishment may be imposed in accordance with the provisions of the relevant enactments as amended by this Act. (2) All legal proceedings pending before a Magistrate or Court on the date on which this Act comes into force shall, if such Magistrate or Court ceases to have jurisdiction in respect of such proceedings under the provisions of the relevant enactments as amended by this Act, stand transferred to the Magistrate or Court having jurisdiction under the provisions of the relevant enactments 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, including the power of the succeeding Magistrate under section 350 of the Code of Criminal Procedure, 1898

5. If any difficulty arises in giving effect to the provisions of this Act, the Government, in consultation with the High Court, may by order do or cause to be done anything, not inconsistent with such provisions and for the furtherance of the purposes of this Act which appears to it to be necessary or expedient for the purpose of removing the difficulty

6. The provisions of the Patiala and East Punjab States Union (PEPSU) Judicature Ordinance, 1952 (PEPSU Ordinance No. 10 of 1952), relating to the classes, constitution, powers, practice and procedure of criminal courts are hereby repealed: Provided that the repeal shall not affect—(a) the previous operation of any provision so repealed or anything duly done or suffered thereunder or (b) any right, privilege, obligation or liability acquired, accrued or incurred under any provision so repealed: or (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any provision so repealed; or (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed: Provided further that anything done or any action taken under any provision so repealed shall be deemed to have been done or taken under the corresponding provision of the Code of Criminal Procedure, 1898, as amended by this Act, and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under the said Code, as amended by this Act. 1964. Year 1898 Classes or • Pb. Act 25 | L SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS THE SCHEDULE (See Section 2) THE CODE OF CRIMINAL PROCEDURE, 1898. 327 No. 2 V PART Short title 3 Extent of Amendment 4 Code of Criminal Procedure

1898. For section 6, the following shall be substituted.1. namely.. "6. Besides the High Court and the Courts constituted under any law other than this Criminal Code for the time being in force, there shall be two classes of Criminal Courts in the State of Punjab. namely:— I—Courts of Session, II—Courts of Magistrate"

2. After section 6, the following shall be inserted. namely:— "A-1. Classes of Magistrates, 6-A. There shall be the following classes of Magistrates. namely:— (1) (2) (3) (4) (2) (3) (4) I. Judicial Magistrates Chief Judicial Magistrates. Judicial Magistrates of first class. Judicial Magistrates of the second class. Special Judicial Magistrates

11. Executive Magistrates District Magistrates. Sub-divisional Magistrates. Executive Magistrates of the first class. Executive Magistrates of the second class." 3. For section 7. the following shall be substituted. namely:— "The State of Punjab shall consist of sessions divisions; and every sessions division shall be a district and for the purposes of this Code, be a district or consist of districts. (2) The State Government, on the recommendation of the High Court, may alter the limits or the number of such divisions and districts, (3) The sessions divisions and districts existing in the Punjab Separation of Judicial and Executive Functions Act, 1964, comes into force shall be sessions divisions and districts respectively, unless and until they are altered: are 328 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 4. In 1964: Pb. Act 25 2 3 4 section 9.— in sub-section (1), after the words sessions divisions, and the words "in consultation with the High Court" shall be inserted: In sub-section (2). after the words "State Government", the words "in consultation with the High Court" shall be inserted. (iii) in sub-section (3), after the words "may also", the words "in consultation with the High Court" shall be inserted and after the words "State (iv) in sub-section Government F, occurring twice. the words "in consultation with the High court" shall be inserted. section 10 (i) in sub-section for the words "a Magistrate". the words "an Executive Magistrate" shall be substituted; and after that sub-section as so amended. the following sub-section shall be inserted. namely:— "(IA) In every district the High Court shall invest a Judicial Magistrate of the first class with the powers of Chief Judicial Magistrate under this Code or any other law for the time being in (ii) in sub-section for the words "any Magistrate of the first

class to be an Additional District Magistrate", the words "any Executive Magistrate of the first class to be an Additional District Magistrate" shall be substituted; and (iii) the marginal heading shall be substituted by the following, namely "District Magistrate and Chief Judicial Magistrate" 6. For section 12, the following shall be substituted, namely:— (1) The State Government may appoint as many persons as it thinks fit besides the Executive and Judicial District Magistrate, to be Executive Magistrates, Magistrate of the first or second class in any district, and the State Government or the District Magistrate, subject to the control of the State Government, may, from time to time, define local areas within which such persons may exercise all or any of the powers with which they may respectively be invested under this Code. 1964 : Pb. Act 251 2 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 4 329 3 (2) The High Court may confer on any person who is a member of the Punjab Civil Service (Judicial Branch) the powers of any class of a Judicial Magistrate in any district and the High Court or Magistrate in the Chief Judicial Magistrate, subject to the control of the High Court, may, from time to time, define local areas within which he may exercise all or any of the powers with which he may be invested under this Code. (3) The State Government, in consultation with the High Court, may, for such period not exceeding six months from the commencement of the Punjab Separation of Judicial and Executive Functions Act, 1964, as it may think fit, appoint as many persons, who are members of the Punjab Civil Service (Executive Branch), as may be considered necessary to be Judicial Magistrates in any district; and the State Government, in consultation with the High Court, may define local areas within which such persons may exercise all or any of the powers with which they may, respectively be invested under this Code. (4) Except as otherwise provided by such definition, the jurisdiction and powers of such persons shall extend throughout such district. (5) The power of appointment of Judicial Magistrates under sub-sections (2) and (3) shall, on the issue of a public notification under Article 237 of the constitution of India, exercised subject to the terms of the said notification." 7. In sub-section (1) of section-13, for the word "Magistrate", the words "Executive Magistrate" shall be substituted. For section 14, the following shall be substituted, namely:— "14. The State Government may, in consultation with the High Court, confer upon any person who holds or has held in Judicial Magistrates, any judicial post under the Union State, or possesses such other qualifications as may, in consultation with the High Court, be specified in this behalf 330 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS (1964 : Pb. Act 25 3 4 by the State Government by notification in the Official Gazette, all or any of the powers conferred or conferable by or under this Code on a Judicial Magistrate in respect of particular cases or to a particular class of cases, or in regard to cases generally in any local area. Such Magistrates shall be called Special Judicial Magistrates and shall be appointed for such term as the State Government may, in consultation with the High Court, by general or special order, direct." 9. For sub-section (1) of section 15, the following shall be substituted, namely:— "(1) The High Court may direct any two or more Judicial Magistrates in any place in the State of Punjab to sit together as a Bench, and may by order invest such Bench with any of the powers conferred or conferable by or under this Code on a Judicial Magistrate of the first or second class, and direct it to exercise such powers in such cases, or, such classes of cases only, and within such local limits, as the High Court thinks fit." 10. In section 16,— for the words "The State Government may, the control of or, subject to the State Government, the District Magistrate", the words "The High Court, subject to the approval of the State Government", shall be substituted; and (ii) for the words "Magistrates' Benches", the words "Judicial Magistrates' Benches" shall be substituted.

11. For section 17, the following sections shall be substituted, namely:— "17. (1) All Judicial Magistrates appointed under, Sub-sections (2) and (3) of section 12 Sessions and section 14 and all Benches Judges, constituted under section 15, shall, Magistrates and subject to the control of the Sessions Bench to Judge be subordinate to the Chief Sessions Judge and Chief Judicial Magistrate, and he may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among such Magistrates and Benches. (2) All Chief Judicial Magistrates shall be subordinate to the Sessions Judge. (3) Assistant Sessions Judges shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and he may, from time to time, make rules consistent with this Code as to the distribution of business among such Assistant Sessions Judges. (4) The Sessions Judge may also, when he himself is unavoidably absent or incapable of acting, make provision for the disposal of any urgent application by an Additional or Assistant Sessions Judge or.

if there be no Additional or Assistant Sessions Judge, by the Chief Judicial Magistrate, and such Judge or Magistrate shall have jurisdiction to deal with any such application, 1) All Executive Magistrates Subordination of appointed under sub-section Executive Magistrates. (1) of section 1.2 and section 13 shall be subordinate to the District Magistrate and every Executive Magistrate (other than a Sub-divisional Magistrate) exercising powers in a Sub-division shall also be subordinate to the Sub-divisional Magistrate, subject, however, to the general control of the District Magistrate. (2) The District Magistrate may, from time to time, make rules or give special orders consistent with this Code as to the distribution of business among the Executive Magistrates subordinate to him and as to allocation of business 10 an Additional District Magistrate. 11 TR- Courts of Sessions and Courts of Judicia: and ... Courts of the High Court and Court of Session Executive Magistrates shall be Criminal Courts inferior to the Court of Session." 12. In section 29-B, (or the words "a District Magistrate or a Chief Presidency Magistrate, or by any Magistrate specially empowered by State Government", the words "a Chief Judicial Magistrate or any other Judicial Magistrate specially empowered by the High Court" shall be substituted. 13. For section 30, the following shall be substituted, namely "30. Notwithstanding anything contained in section 28 Offences punishable with imprisonment not exceeding seven years, the High Court may or may not invest any Chief Judicial Magistrate or any Judicial Magistrate of the first class with power to try as a Judicial Magistrate all offences not punishable with death or with imprisonment for life or with imprisonment for a term exceeding seven years. Provided that no Judicial Magistrate or Judicial Magistrate of the first class shall be invested with such powers unless he has, for not less than ten years, exercised as a Magistrate powers not inferior to those of a Magistrate of the first class." 14. In the marginal heading of section 34, for the word 'District', the word 'Judicial' shall be substituted

15. In section 36, after the words "District Chief Judicial Magistrate shall be Magistrate". the words ; and for the words "Magistrates of the first, second and third classes" the words "Judicial and Executive Magistrates other than Special Judicial Magistrate" shall be substituted. the following shall be 16. For section 37 and 38 namely : "37. In addition to his ordinary powers,— (i) the High Court may invest any Judicial Magistrate with any of the powers as Additional powers conferred on specified in Part I of the Fourth Schedule 1964 : Ph. Act 25 1 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 4 333 3 (i) a Chief Judicial Magistrate may invest any other Judicial Magistrate within his local jurisdiction with the powers specified in Part I of the Fourth Schedule ; the State Government may invest any Executive with the any of powers as specified in Part II of the Fourth Schedule : and (iv) a District Magistrate may invest any Executive Magistrate within his local jurisdiction with the powers specified in Part II of the Fourth Schedule

38. The Power conferred by clause (ii) of section 37 shall be exercised subject to the control of the High Court and the power under clause (iv) of that section shall be exercised subject to the control of the State Government," 13. After section 38, the following section shall be inserted, namely "38A. Whenever, under any provisions of this Code or of any law for the time being in force Powers on Judicial Magistrates to conferred in relating to any of the matters specified in lists I and II of the Schedule shall be conferred on any Judicial Magistrate or any other Judicial Magistrate or any Magistrate is to be specially empowered to exercise such powers, the conferring such powers or the exercise of such powers shall be empowered by the High Court notwithstanding that such provision may not expressly so provide. Explanation.— For the purposes of this section, the question whether any powers are judicial shall be decided by the High Court and such decision shall be final 18. In sub-section (1) of section 39, for the words "the Government" words the State Government or the High Court as the case may be" shall be substituted. 19. In section 40, the words "the State Government", occurring for the second time, the word "the State Government or the High Court, as the case may be," shall be substituted. 20. In section 41, (i) in sub-section after the words "the State Government". the words "or the High Court, as the case may be." shall be inserted. and (ii) in sub-section the following sub-section shall be substituted, namely powers conferred by the Chief "(2) Any Judicial Magistrate or the

District Magistrate may be withdrawn by him." 21.' In sub-section (2) of section 57. for the words "a Magistrate", the words "a Judicial Magistrate having jurisdiction" shall be substituted

22. In section 63, for the word "Magistrate" the words "Magistrate having jurisdiction" shall be substituted

23. For sub-section (1) of section 78. the following shall be substituted, namely — A District Magistrate or a Chief Judicial Magistrate or a Sub-divisional Magistrate or any other Judicial Magistrate of the first class may direct a warrant to any farmer or manager of land within the area of his jurisdiction for the arrest of any escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit." 24. In section 88.— (a) in sub-section (2), after the "or Chief Judicial Magistrate", the words "Magistrate" shall be inserted; (b) in sub-section (6B), after the words "District or Chief Judicial Magistrate". the words "Magistrate" shall be inserted; (c) for the proviso to sub-section (6C). the following proviso shall be substituted 1964 : Pb. Act 25 | 2 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 4 namely 335 3 "Provided that it is preferred or made in the Court of a District Magistrate, or any other Executive Magistrate, such Magistrate shall refer it to the Chief Judicial Magistrate who shall make it over for disposal to any Judicial Magistrate of the first class subordinate to him. and such Judicial Magistrate shall have all the powers and jurisdiction in respect of such claim or objection as if the order of attachment had been issued by such Judicial Magistrate and the claim or objection had been originally preferred or made before him" 25. words "District or Chief Judicial Magistrate". wherever occurring, the words "Chief Judicial Magistrate" shall be inserted 26. In sub-section (2) of section 96. after the words, "District Magistrate", the words "or Chief Judicial Magistrate" shall be inserted

27. In section 98, after the words ' 'District Magistrate', wherever occurring. the words "Chief Judicial Magistrate" shall be inserted. In sub-section (1) of section 106. for the words "Court of a Presidency Magistrate, a District Magistrate, a Sub-Divisional Magistrate or a Magistrate". the words "Court of a Chief Judicial Magistrate or any other Judicial Magistrate" shall be substituted

29. In sections 107, 108, 109 and 110, for the words "Magistrate of the first class", the words "Executive Magistrate of the first class" shall be substituted

30. In section 124—(i) for the words "Chief Presidency Magistrate". wherever occurring, the words "Chief Judicial Magistrate" shall be substituted; and (ii) in sub-section (2) for the words "Chief Presidency". the words "Chief Judicial Magistrate" shall be substituted. 336 -2 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 3 [1964. Pb. Act 25 4 31. In section 125, for the words "Chief Presidency" the words "Chief Judicial Magistrate" shall be substituted

32. In section 126, — (i) in sub-section (J), for the words "a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first class". the words "to the Court by which an order was made to give security" shall be substituted ; and (ii) for sub-section the following shall be substituted, namely "(2) On such application being made, the Court shall issue summons or warrant, as it may think fit, requiring the person for whom such surety is bound to appear or to be brought before it."

33. In sections 127, 128, 129, 130, 131 and 132, for the word "Magistrate", wherever occurring, the words "Executive Magistrate" shall be substituted

34. In section 133.— (i) in the opening paragraph or sub-section (1) and in sub-section (2), for the word "Magistrate". the words "an Executive Magistrate" shall be substituted ; and (ii) in closing paragraph of sub-section for the words "Magistrate of the first or class". the words "Executive second Magistrate" shall be substituted. 35. in section 143, for the words "any other Magistrate", the words "any other Executive Magistrate" shall be substituted. 36. sub-section (1) of section 144, for the words and brackets "any other Magistrate (not being a Magistrate of the third class)". the words "any other Executive Magistrate" shall be substituted

37. In sub-section (1) of section 145 and sub-section (1) of section 147. for the words "Magistrate of the first class" the words "Executive Magistrate of the first class" shall be substituted. 1964 : Pb. Act 25 | 2 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 337 3 38. In) of section 155. the sub-section (1) power to commit the same case or case for trial" shall be added at the end

39. In sub-section (1) of section 164, for the words "Presidency Magistrate, any Magistrate of the first class and any Magistrate of the second class specially empowered by the State

Government". the words "Judicial in this Magistrate of the first class or any judicial Magistrate of the second class specially empowered in this behalf by the High Court" shall be substituted. 40. section 167.— (i) [or the proviso to sub-section following shall be substituted, namely Executive or Judicial Provided that no Magistrate of the second class not specially empowered in this behalf by the State Government or the High Court, as the case may be, shall authorise detention in 'the custody of police' and (ii) for sub-section the following shall be substituted, namely : If such order is given by an Executive Magistrate other than the District Magistrate or Sub-divisional Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Magistrate to whom he is immediately subordinate and if such order is given by a Judicial Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate." 41. In sub-section (3) of section 170, for the words "District Magistrate or Sub-divisional Magistrate", the words "Chief Judicial Magistrate" shall be substituted, 42. [in sub-section (5) of section 174, for the words "Magistrate of the first class and any Magistrate", the words "Executive Magistrate of the first class and any Other Executive Magistrate" shall be substituted 43. In sub-section (I) of section 186, for the words "a Presidency Magistrate, District Magistrate, a Magistrate or, if he is specially empowered in this behalf by the State Government, a Magistrate of the first class or the District Magistrate, a Chief Judicial Magistrate, a Sub-divisional or, if he is specially empowered in this behalf by the State Government or the High Court, as the case may be, an Executive or a Judicial Magistrate of the first class" shall be substituted

44. In sub-section (I) of section 187, for the words "Presidency Magistrate or District Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate". the words "a District Magistrate or Chief Judicial Magistrate, such Magistrate shall send the person arrested to the District or Sub-divisional Magistrate, or, as the case may be, to the Chief Judicial Magistrate" shall be substituted

45. In section 190,—in sub-section (I), for the words "any Presidency Magistrate, District Magistrate or Sub-divisional Magistrate, and any other Magistrate". the words "any Chief Judicial Magistrate and any other Judicial Magistrate" shall be substituted; in sub-section for the words "State Government, or the District Magistrate subject to the general or special orders of the State Government, may empower any Magistrate", the words "High Court, or the Chief Judicial Magistrate subject to the order of the High Court generally or special orders may empower any other Judicial Magistrate" shall be substituted ; and (3), for in sub-section the words "State Government may empower any Magistrate" the words "High Court may empower any Judicial Magistrate" shall be substituted. 46. In section 192,— in sub-section (I), for the words "Any Chief (i) Presidency Magistrate, District Magistrate or Sub-divisional Magistrate". the words "Any Chief Judicial Magistrate" shall be substituted; and 2), for the words "District Magistrate in sub-section (I) Magistrate". the words "Chief Judicial Magistrate" shall be substituted. 1964 : Pb. Act 25 | 2 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 4339 3 47. In section 193, for the words sub-section (2) of section "the State Government, the words "the High Court" shall be substituted

48. In sub-section (I) of section 206, for the words Presidency Magistrate, and brackets "Any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class. Magistrate (not being a Magistrate of the third class) empowered in this behalf by the State Government". the words "Any Chief Judicial Magistrate or Magistrate of the first class or any Magistrate of the second class empowered in this behalf by the High Court" shall be substituted

49. In section 249, for the Presidency Magistrate. a Magistrate of the first class with the sanction of the District Magistrate, any other Magistrate", the words "a Judicial Magistrate of the first class, or, with the previous sanction of the Chief Judicial Magistrate, any Magistrate of the second class" shall be substituted

50. In the opening paragraph of sub-section (I) of section 260, for clauses (a), (b) and (c), the following clauses shall be substituted, namely:—the Chief Judicial Magistrate, (b) any Judicial Magistrate of the first class specially empowered in this behalf by the High Court, and (c) any Bench of Judicial Magistrates invested with the powers of a Judicial Magistrate of the first class and especially empowered in this behalf by the High Court". for the words "State Government may confer on any Bench of Magistrates invested with the powers of a Magistrate of the second or third class",

the words "High Court may confer on any Bench of Judicial Magistrates invested with the powers of a Judicial Magistrate of the second class" shall be substituted

52. In section 263. for the words "the State Government", the words "The High Court" shall be substituted. 340 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS [1964 : Pb. Act 25 2 3 4 53. In sub-section Of section 265, for the words "The State Government may authorise any Bench Of Magistrates", the words "The High Court may authorise any Bench of Judicial Magistrates" shall be substituted. 54. in sub-sections (1) and (2) of section 269 after the words "State Government", the words "In consultation with the High Court" shall be inserted

55. In section (i) in sub-section (I for the words "a Presidency Magistrate, a Sub-divisional Magistrate or any Magistrate of the first class", the words "a Chief Judicial Magistrate, a Sub-divisional Magistrate or any Judicial Magistrate of the first class" shall be substituted; and (ii) in the proviso 10 sub-section for the words "District Magistrate", occurring twice, the words "Chief Judicial Magistrate" shall be substituted 56 In sub-section (1) of section 346, after the words "District Magistrate", the words "or the Chief Judicial Magistrate, as the case may be" shall be inserted- 57. In section 349,— (i) In sub-section (1) (a) for the words "a Magistrate of the second the words "a or third class" Judicial Magistrate of the second class" shall be substituted; and (b) for the words "District Magistrate or Sub. Divisional Magistrate", the words "Chief Judicial Magistrate" shall be substituted; and (ii) in sub-section (I-A), for the words "District Magistrate or Sub-divisional Magistrate". the words "Chief Judicial Magistrate" shall be substituted

58. In section 380. for the words "Magistrate of the first class or a Sub-divisional Magistrate", the words "Judicial Magistrate or the first class" shall be substituted. 1964 : Pb. Act 25 | 1 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 4 341 2 3 59. For section 406A, the following shall be substituted, namely:— "406-A. Any person aggrieved by an order refusing to accept or rejecting a surety under refusing accept section 122 may appeal against such or reject and a order to the Court of Session" surely

60. In section 40S. for the words "a District Magistrate or any other Magistrate, or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by any the words "or a Judicial Magistrate or any person sentenced under section 349 or in respect of whom an order has been made or a sentence has been passed under section 380 by a Judicial Magistrate" shall be substituted. 61 In section 409,— (i) in the proviso to sub-section (1). the words "or third" shall be amended: and (ii) in sub-section (2), for the words "State Government", the words "High Court" shall be substituted. 62. In section 413. for the words "or District Magistrate or other Magistrate", the words "or Chief Judicial Magistrate or other Judicial Magistrate" shall be substituted

63. In sub-section (1) of section 428. for the word "Magistrate", occurring twice, the word "Judicial Magistrate" shall be substituted

64. In section 43,5 (i) in sub-section for the words Magistrate, or any Sub-divisional Magistrate empowered by (the State Government in this behalf", the words "or Chief Judicial Magistrate" shall be substituted: and (ii) for sub-sections (2) and the following sub-sections shall be substituted. namely:— 342 2 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 3 [1964 : Pb. Act 25 4 "(2) The District Magistrate or any Sub-divisional Magistrate empowered by the State Government in this behalf, may call examine the record of any far and proceeding before any subordinate Executive Magistrate for the purpose of satisfying himself as to the correctness, legality or propriety of any order recorded or passed and as to the regularity any proceedings of such subordinate Magistrate and may, when calling for such record, direct that the execution of any order be suspended and if the person is in connection therewith he be released on bail on his own bond pending the examination of the record. (3) If any Sub-divisional Magistrate acting under sub-section (2) considers that any such proceeding or order is illegal or improper he shall forward the record with such remarks, thereon as he thinks fit to District Magistrate- (4) The High Court may call for and examine sections 118. 122. 143. 144 or 145, notwithstanding the fact proceeding was heretofore an Executive Magistrate, has been made either (1) the Sessions Judge or the Chief Judicial Magistrate no further application shall be entertained by the Officer of them" 65. For section 436. the following shall be substituted, namely:— "436.(1) On examining any record under section 435 or otherwise, (the High Court or the Sessions Judge may direct the Chief Inquiry.

Judicial Magistrate by himself or by any of the Magistrates subordinate to him to make, and the Chief Judicial Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any complaint which 1964 : Pb. 25 | 2 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 4 343 has been dismissed under section 203 or sub-section (3) of section 204, or into the case of an offence who has been any person accused discharged: Provided that no Court shall make any direction under this sub-section for inquiry into the case of any person who has been discharged unless such person has had an opportunity of showing cause why such direction should not be made. (2) On examining any record under section 435 or otherwise, the District Magistrate may direct any Sub-divisional Magistrate or any other Magistrate subordinate to him to make, and the Sub-divisional Magistrate may himself make or direct any subordinate Magistrate to make, further inquiry into any proceeding in which an order of release or discharge has been made under section 19 Provided that no District Magistrate shall make any direction under this sub-section for further inquiry into the case of any person unless he had an opportunity of showing cause why such direction should not be made". 66. in section 437, for the words "or Magistrate", occurring thrice, the words "or Chief Judicial Magistrate" shall be substituted

67. In section 438.— (i) for the words "or District the words "or Chief Judicial Magistrate" shall be substituted; and (ii) after sub-section (2), the following sub-section shall be added, namely:— On examining under section or otherwise the record of any proceeding.— (1) if such proceeding is in respect of an order made under section 118, section 122, section 143, section 144 section 145 and or the District Magistrate thinks that the order made in such proceeding should be reversed or altered, he shall report for the order of the High Court the result of such examination; (2) if such proceeding is in respect of an order made under any other section, then in the case of such proceedings the District Magistrate may, subject to the provisions of sub-section (2) of section 436, exercise any of the powers conferred on a Court of Appeal by sections 423, 426, 427 and 428" 68. In section 479, for the words "Presidency Magistrate, District Magistrate or other Magistrate", the words "Chief Judicial Magistrate or any other Judicial Magistrate" shall be substituted- 69. In sub-section (1) of section 48, for the words "District Magistrate, a Presidency Magistrate, a Sub-divisional Magistrate or a Magistrate", the words "Chief Judicial Magistrate or any other Judicial Magistrate" shall be substituted

70. For section 515. the following shall be substituted, namely:— Appeal from, and Magistrate shall be appealable to the District Magistrate, or, if so appealed, under section 514 may be revised by the District Magistrate. 71. In section 524.— (i) in sub-section for the words "Magistrate of the first class" shall be substituted; and (ii) in sub-section (2), for the words "to the Court to which appeals against sentences of the Court passing such order would lie", the words "to the Sessions Judge" shall be substituted. 72. 528— in section (i) in sub-section — (a) for the words "Any Chief Presidency Magistrate, District Magistrate or Sub-divisional Magistrate", the words "The Chief Judicial Magistrate" shall be substituted ; and 1964 : Pb. Act 25 2 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 4 345 3 (b) for the marginal heading, the following shall be substituted, namely— "Chief Judicial Magistrate may withdraw or refer cases"; and (ii) after sub-section the following sub-section shall be inserted, namely:— "(3-A) Where the District Magistrate authorised under sub-section (3) withdraws any case from any Magistrate subordinate to him, he may inquire into or try such case himself or refer it for inquiry or trial to any other Magistrate subordinate to him and competent to inquire into or try the same"

73. In section 552. after the words "District Magistrate", the words "or Chief Judicial Magistrate" shall be inserted

74. In sub-section (2) of section 559, for the words 'the Chief Presidency Magistrate in a Presidency-town, and the District Magistrate outside such towns', the words 'the Chief Judicial Magistrate in the case of District Magistrates Magistrates' shall be substituted

75. In section 561. for the words "a Chief Presidency Magistrate or a District Magistrate", wherever occurring words "a Chief Judicial Magistrate" shall be substituted: and in proviso to sub-section (i) of section 562— (i) for the words "Magistrate of the first class, or a Magistrate of the second class not specially empowered by the State Government" the words "Judicial Magistrate of the second class not specially empowered by the High Court" shall be substituted : and for the words "Magistrate of the first class or Sub-divisional Magistrate", the words "Judicial Magistrate of the first class" shall be substituted.

346 2 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 3 11964 : Ph. Act 25 4 77. In section 565,— (i) in sub-section (1), for the words "Presidency Magistrate, District Magistrate, Sub-divisional the words "Chief Magistrate or Magistrate", Judicial Magistrate or any other Judicial (ii) in sub-section (3), after the words "Sate Governn•enl••, the words "in consultation with the High Court" shall be inserted ; and (iii) in sub-section (5), for the word "Magistrate", the words "Judicial Magistrate" shall be substituted

78. In Schedule 11. in column 8,— (i) for the word 'Magistrate'. wherever occurring except in the expression "presidency Magistrate". the words "Judicial Magistrate" and for the words "Any Magistrate", wherever occur. The words Judicial Magistrate shall be substituted; (ii) for the entry relating section 124A. the following entry shall be substituted, namely:— "Court of Session, Chief Judicial Magistrate or any other Judicial Magistrate of the first class specially empowered by the High Court in that behalf" ; and (iii) in the entry relating to section 376. for the words "Chief Presidency Magistrate or District the words "or Chief Judicial Magistrate", Magistrate" shall be substituted. 1964 : Pb. Act 25 2 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 4 347 and [V, the following 79. For Schedules Schedules shall be substituted. namely:— "SCHEDULE (See section 36) ORDINARY POWERS OF STATE MAGISTRATES 1. —Ordinary Powers of a Judicial Magistrate of the second class with power to arrest or direct the arrest of, commit to custody, a person committing an offence in his presence. section 64. (2) Power to arrest, or direct the arrest in his presence of, an offender, section 65. with power to endorse a warrant, or to order the removal of an accused person under a warrant. sections 83, 84 and 86. (4) Power to issue proclamations cases judicially before him. section 87. (5) Power to attach and sell property and to dispose claims or objections attached property, section 88. with power to section 89. • - -e attached property. rest,, (7) power to require search of the files and telegrams, section 95. with power to issue search warrant, section 96. (9) Power to endorse a search warrant and order delivery of thing found, section 99. (10) Power to order the police to investigate an In cases in which the Magistrate has jurisdiction try or commit for trial, section 155. (11) Power to authorise detention, not being with power to detention in the custody of the police, a person during a police investigation, section 167. 348 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 3 (12) (14) (15) (16) (18) (19) (20) 4 Power to postpone issue of and to process inquire into a case or direct investigation. section 202- Power to detain an offender found in Court, section 351. Power to take evidence on commission. section Power to recover forfeited bond for appearance before Magistrate's Court. section 514 and to require fresh security. section 514A. Power to make order as to custody and disposal of property properly pending trial, section 516A. Power to make order as to disposal of property, section 517. Power to settle property of a suspected character, section 525. Power to require affidavit in support of application, section 539A. Power to make incal inspection. section 539B —Ordinary Powers of a Judicial Magistrate of the first class. (1) The ordinary powers of a Judicial Magistrate of the second class. (2) Power to direct warrant to land-holders. section 78. (3) Power to issue search warrant otherwise than in due course of an inquiry. section 98. (4) Power to issue search warrant for discovery of stolen property confined. section 100. (5) Power to require execution of a bond, section 106. (6) Power to discharge sureties. sections 126 and 126A (7) Power to record statements and confessions during a police investigation, section 164. 1964 : Pb. Act 25 3 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 4 349 (8) Power to authorise detention of a person in the custody of the police during a police- investigation, section 167. (9) Power to commit for trial, section 206. (10) Power to stop proceedings when no complainant, section 249. (11) Power to tender pardon to accomplice during inquiry into case by himself, section 337. (12) Power to make orders of maintenance, sections 488 and 489. (13) Power to recover penalty on forfeited bond. section 514. (14) Power to require fresh security, section 514A- (15) Power to recall Case made over by him to another Magistrate, section 528(4). (16) Power to make order as to first offenders. section 502. (17) Power to order released convicts to notify residence, section 565. III. Ordinary Powers of a Chief Judicial Magistrate. (I) The ordinary powers of a Judicial Magistrate of the first class. (3) Power to require delivery of telegrams, etc., section 95. (4) Power to issue search warrants for documents in custody of postal or telegraph authorities, section 96. (5) Power to release persons imprisoned for failing to give security under section 106, section 124- (6) power to cancel am, bond for keeping the peace under section 106 section (7) Power to order police investigation into a cognizable offence 156 350 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 3 [1964 Act 25 4 Power to issue process a person within local jurisdiction

who has committed an offence outside the local jurisdiction, section 186. (9) Power to entertain complaints. section 190. (10) Power to receive reports, section 190. (11) Power to entertain cases without preliminary investigation by a police officer not below the rank of an Inspector in certain cases. section 196B. (12) Power to transfer cases to a Subordinate Magistrate, section 192. (13) Power to order preliminary investigation by a police officer not below the rank of an Inspector in certain cases. section 196B. (14) Power to try summarily. section 260. (15) Power to tender pardon to an accomplice at any stage of a case, section 337. (16) Power to on proceedings sentence passed recorded by a Subordinate Magistrate, section 349. (17) Power to call for records, section 435. (18) Power to order inquiry. section 436. (19) Power to order committal. section 437. (20) Power to report a case to High Court. section 438. (21) Power to order committal, section 528. (22) Power to compel restoration of abducted female. section 552.

Ordinary Powers of an Executive Magistrate of the second class. (1) Power to arrest or direct the arrest of, and to commit to custody, a person committing an offence in his presence, section 64. or direct the arrest in his presence of, an offender, section 65. 1964 : Pb. Act 25 | 2 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 4 351 3 (3) Power to endorse a warrant, or to order the removal of an accused person arrested under a warrant, sections 83, 84 and 86, (4) Power to issue proclamations, section 87. (5) Power to attach and sell property, section 88. (5) Power to require search to be made for letters and telegrams, section 95. (7) Power to issue search warrant. section 96. (8) Power to endorse a search warrant, and order delivery of thing found, section 99. (9) Power to command unlawful assembly to section 127. (10) Power to use civil force to disperse unlawful assembly. section 128. (11) Power to require military force to be used to disperse unlawful assembly. section 130. (12) Power to authorise detention not being detention in the custody of the police of a person during a police investigation. section 131. (13) Power to take evidence on Commission. section 503. (14) Power to recover forfeited bond for section 517 and to require fresh security. section 517. (15) Power to make order as to disposal of property. section 517. (16) Power to sell property of a suspected character. section 525. V.— Ordinary Powers of Executive Magistrate of the first class (1) The ordinary powers of an Executive Magistrate of the second class. (2) Power to issue search warrant otherwise than in course of an inquiry, section 98. 352 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 4 352 3 (3) (4) (5) (6) (7) (8) (9) (10) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (21) (22) (23) (24) (25) (26) (27) (28) (29) (30) (31) (32) (33) (34) (35) (36) (37) (38) (39) (40) (41) (42) (43) (44) (45) (46) (47) (48) (49) (50) (51) (52) (53) (54) (55) (56) (57) (58) (59) (60) (61) (62) (63) (64) (65) (66) (67) (68) (69) (70) (71) (72) (73) (74) (75) (76) (77) (78) (79) (80) (81) (82) (83) (84) (85) (86) (87) (88) (89) (90) (91) (92) (93) (94) (95) (96) (97) (98) (99) (100) (101) (102) (103) (104) (105) (106) (107) (108) (109) (110) (111) (112) (113) (114) (115) (116) (117) (118) (119) (120) (121) (122) (123) (124) (125) (126) (127) (128) (129) (130) (131) (132) (133) (134) (135) (136) (137) (138) (139) (140) (141) (142) (143) (144) (145) (146) (147) (148) (149) (150) (151) (152) (153) (154) (155) (156) (157) (158) (159) (160) (161) (162) 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1964 : Pb. Act 25 2 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 4 353 3 (8) Power to sell property alleged or suspected to have been stolen, etc.. section 524. VII.— Ordinary powers of a District Magistrate. (1) The ordinary powers of a Sub-divisional Magistrate- (2) Power to vary or letters, require delivery of telegrams. etc., section 95. (3) Power to issue search warrants for documents in custody of postal or telegraph authorities. section 96. (4) Power to require security for good behaviour. section 108. (5) Power to discharge persons bound to keep the peace or to be of good behaviour. section 124. (6) Power to cancel bond keeping the peace. section 125 (7) Power to order preliminary investigation: by police officer not below the rank of Inspector in certain cases. section 196B. (d) Power to tender pardon to an accomplice at any stage of a case. section 337 (9) Power to call for and examine records. section 435 (2). (10) Power to further inquire into proceedings. etc.. section 436 (2). (11) Power to report to High Court. section 438 (12) Power to appoint person to be Public Prosecutor in particular case. section 492 (13) Power to compel restoration of abducted female, section 552. 354 2 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS SCHEDULE (See section 37) [1964 : Pb. Act 25 3 4 ADDITIONAL POWERS WITH WHICH STATE MAGISTRATES MAY BE NESTED PART (A) By High Court Powers with which a Judicial Magistrate of the first class may be invested. (1) Power to try juvenile offenders, section 29B. (2) Power to issue process for person within local jurisdiction who has committed an offence outside the local jurisdiction,

empowered by the High Court" shall be substituted 2. In sub-section (1) of section 9, for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted

3. In section 10, for the words "District Magistrate". the words "Chief Judicial Magistrate" shall be substituted. 358 1916 1917 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 11964 : Pb. Act 25 2 7 1 3 for Prevention of Seditious Meetings ACT, 1911 The Indian Medical Degrees Act, 1916. The Inland Steam vessels Act

1917. The Identification of Prisoners Act. 1920. 4 In sub-section (2) section 11. for the words "District 4. words "Chief Judicial Magistrate" shall be substituted

5. In section 31, in sub-sections (4) and for the words "District Magistrate". the words "Chief Judicial Magistrate" shall be substituted, . In sub-section (2) of section 4, the words "Magistrate of the first class". the words "Executive Magistrate of the first class" shall be substituted. 2. in section 8, for the words "Presidency Magistrate or a Magistrate of the first class Sub-divisional Magistrate", the words "Judicial Magistrate of the first class" shall be substituted. In section 8, for the words "a Magistrate" (the words "a Judicial Magistrate" shall be substituted. 1. In clause (b) of sub-section (1) of section 33, for the words "District Magistrate". the words "Chief Judicial Magistrate" shall be substituted. In sub-section (i) or section 35. for the words "District 2. the words "Chief Judicial Magistrate" shall be substituted. In clause (b) of section 38. for the words "District 3. Magistrate". the words "Chief Judicial Magistrate" shall be substituted. 1920 33 j 922 1923 22 19 (b) The Police (incitement to Disaffection) Act

1922. The Indian Official Secrets Act, 1923. (a) for the words "Magistrate". the words "an Executive Magistrate" shall be substituted: and in the result for the words "A Magistrate of the first class". the words "an Magistrate of the first class" shall be substituted.) in sub-section (1) of section 6, for the words "Magistrate of the First Class". the words "Judicial Magistrate of the First Class" shall be substituted. In sub-section (1) of section 13.— for the words "a Magistrate". the words "Magistrate" shall be substituted . and "Judicial Magistrate" by 25 of 1964 : Pb. Act 25 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 4 359 1917 m9 1932 1940 1955 i 95b 1905 2 16 19 23 32 i 04 3 3 3 The Indian Forests Act, 1927. The Child Marriage Restraint Act, 1929. The Criminal Law Amendment Act, 1932 The Drugs and Cosmetics Act, 1940. The Prisoners Attendance in Courts Act, 1955. the Indian Immoral Traffic in Women and Girls The Punjab Minor Canals Act, 1905 The Punjab Municipal Act, 1911. (b) 2. for the words "which is inferior to that of a District or Presidency Magistrate", the words "or that of the Chief Judicial Magistrate" shall be substituted. In section 67, for the words "The District Magistrate or any Magistrate of the first class specially empowered in his behalf State Government", the words "The Chief Judicial Magistrate or any other Judicial Magistrate of the first class specially empowered in this behalf by the High Court" shall be substituted. In section 8, for the words "a Magistrate", the words "a Judicial Magistrate" shall be substituted. In clause (i) of section 9. for the words "a Magistrate of the first class", the words "Judicial Magistrate of the first class" shall be substituted. In sub-section (2) of section 32, for the words "a Magistrate". the words "a Judicial Magistrate" shall be substituted In sub-section (3) of section 3, for the words "Magistrate of the first class". the words "Judicial Magistrate of the first class" and for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted "a Judicial Magistrate" shall be substituted. in section 22. for the words "Magistrate as defined in clause (c) of section 2", the words "a Chief Judicial Magistrate or any other Judicial Magistrate of the first class" shall be substituted. PART ACTS 1964 : Pb. Act 25 2 5 5 6 3 The Colonization Government Lands (Amendment) Act, 1962

1914. The Punjab Medical Registration Act, 1916 The Restriction of Habitual Offenders (Punjab) Act, 1918, The Punjab Courts Act. 1918. 4 in section 33, the words "by any Magistrate" omitted. . In section 3, clause (15) shall be omitted 2 3. 4. 2 shall be In clause (2) of the proviso to section 50, for the word "Magistrate". the words "Judicial Magistrate" shall be substituted, In section 54,— (a) in sub-section (2), for the words "a Magistrate", the words "an Executive Magistrate" shall be substituted; and (b) in sub-section (3), for the words "any Magistrate", the words "any Executive Magistrate" shall be substituted.

In section 75, for the word "Magistrate". occurring twice. the words "Judicial Magistrate" shall be substituted. In section 23. for the word the words "Judicial Magistrate" shall be substituted. . For section 13, the following shall be substituted, namely "13. Any person against whom an order of restriction has been passed under this Act may prefer an appeal,— (u) to the District Magistrate, if such order has been made by an Executive Magistrate subordinate to him; (b) to the Chief Judicial Magistrate, if such order has been made by a Judicial Magistrate subordinate to him; (c) to the Court of Session, if such order has been made by the District Magistrate or the Chief Judicial Magistrate; (d) to the High Court, in any other case." (1) of section 17. for the words "a Magistrate", the words "a Judicial Magistrate" shall be substituted. After sub-section (1) of section 22, the following sub-section shall be added, namely: "The Court may confer on any Judicial Magistrate of the first class the powers of Subordinate Judges as it may deem fit to be." 1964 : Pb. Act 25 3 The Punjab Juvenile Smoking Act, 1918. The Punjab Village and Small Towns Patrol Act

1918. The Punjab Town Improvement Act, 1924. Good Conduct Prisoners Probationary Act, 1926. SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 4 361 2 7 8 4 4 IO exercised by the Judicial Magistrate within such local area as the High Court may define. . In section 3. the words "by a Magistrate" shall be omitted, 2 For section 5. the following shall be substituted, namely . "5. The High Court may confer on Judicial Magistrates, invested with the Summary Jurisdiction. powers of a Judicial Magistrate of the second class. powers to try summarily any offence under this Act." section 8, the word "Magistrate". the words "Executive Magistrate" shall be substituted. In section 80- the words "by a Magistrate" shall be omitted. In sub-section (1) of section 84, for the word "Magistrate". "Judicial Magistrate" shall be the words substituted. (2) of section 16, for the words "Judicial Magistrate" shall be "Magistrate". The substituted. In sub-section (1) of section 7. the words "by a Magistrate" shall be omitted. section 5 - (a) in sub-section for the words "Magistrate of the first class", occurring twice, the words "Judicial Magistrate of the first class" shall be substituted; (b) in sub-section (2). for the words "any Magistrate". the words "any Judicial Magistrate" and for the words "District Magistrate". the words "Chief Judicial Magistrate" shall be substituted. 362 193 1932 19-42 1B4-S 1948 1948 1949 1949 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS [1964 : Pb. Act 25 2 8 7 7 S 12 13 4 39 3 The Punjab Pure Food Act, 1929. The Punjab Nurses Registration Act

1932. The Punjab Suppression of Indecent Advertisements Act, 1941. The Music in Muslim Shrines Act, 1942. The East Punjab Refugees (Registration of Claims) Act, 1948. The East Punjab Refugees (Registration of Land Claims) Act, 1946. The East Punjab (Exchange of Prisoners) Act, 1948. Live Stock and Birds Diseases Act

1948. The East Punjab Agricultural Pests, Diseases and Noxious Weeds Act

1949. The Punjab Children Act, 1949. 2 4 In section 23, the words "before a Magistrate" shall be omitted. In sub-section (2) of section 8, the words "by a Magistrate" shall be omitted. In section 7. section 23 and section 24, for the words "by a Magistrate of the first class" shall be substituted. In section 5, for the words "Magistrate of the first class", the words "Executive Magistrate of the first class" shall be substituted. In section 5, for the word "Magistrate" the words "Judicial Magistrate" shall be substituted. In section 8, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. In sub-section (1) of section 9. for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. In section (1) of section 8. for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. or a Magistrate of the second class specially empowered in this behalf by the State Government", the words "Judicial Magistrate of the first class, or a Judicial Magistrate of the second class specially empowered in by the High Court" shall be substituted. In sub-section (3) of section 4 and section 9. the words "by a Magistrate". wherever occurring shall be omitted. . In section 6,— (a) in clause (c), for the words "a District Magistrate", the words substituted 1964 : Pb. Act 25] SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 363 1951 2 10 3 The Punjab Development of Damaged Areas Act, 1951. (b) (d) shall be omitted; clause 3. 4. S. 6. 7. (c) in clause (f), for the words "Magistrate", the words "Judicial Magistrate" shall be substituted and in clause (g). the words "in consultation with the High Court" shall be added at the end. "District Magistrate or Sub- In section 7. for the words Magistrate".

[he words "Chief Judicial Divisional Magistrate" and for the word "Magistrate", wherever occurring, the words "Judicial Magistrate" shall be substituted. In the proviso to sub-section (1) of section 8. for the word "Magistrate", wherever occurring, the words "Judicial Magistrate" shall be substituted. In section 22, for the word "Magistrate", wherever occurring, the words "Judicial Magistrate" shall be substituted. In sub-section (3) or section 59. for the words "Magistrate and words of first class", "such Magistrate", the words "Judicial Magistrate of the first class", and the "such Judicial Magistrate" words respectively, shall be substituted. In sub-section (1) of section 60,— (a) after the words "State Government". the words "in which the following are inserted; and (b) for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. In sub-section (1) of section 72. In (a) in clause for the words "Magistrate of the second or third class", the words "Judicial Magistrate class" the second shall be substituted; and for the words "District "Chief Judicial Magistrate" Magistrate" the words shall be substituted; and (b) In clause (b), for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. 1. In section 7, for the word 'Magistrate', Wherever the words "Judicial Magistrate" shall be occurring, substituted. 364 1932 1953 1953 wü7ds SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS [1964 : Pb. Act 25 2 12 16 4 3 The Punjab Habitual Offenders (Control and Reform) Act, The Punjab Passengers and Goods Taxation Act

1952. The Punjab New Capital (Periphery) Control Act

1952. The Punjab Gram Panchayat Act. 1952. 4 2 In section 32. for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. . In the proviso to section 5. for the words "a Magistrate" the words "a Executive Magistrate" shall be substituted. 2 In the proviso to sub-section (2) of section 7, for the words "a Second Class Magistrate" words "an Executive Magistrate of the second class" shall be substituted. of section 19. for the word "Magistrate" the words "Judicial Magistrate" shall be substituted. In sub-section (1) of section 17 for the words "a Magistrate", the words "Judicial Magistrate" shall be substituted. 2. 3

5. In section 13. for the word "Magistrate" the words "Judicial Magistrate" shall be substituted. . In section 15, in sub-section (2), for the words "a Magistrate". the words "Executive Magistrate" shall be substituted; and (b) in sub-sections (4) and for the word "Magistrate" the words "Judicial Magistrate" shall be substituted. In the proviso to section 41 and section 45. for the words "District Magistrate" the words "Chief Judicial Magistrate" shall, be substituted. In sub-section (3) of section the word "Magistrate", occurring twice, the words "Judicial Magistrate" shall be substituted. the marginal heading of section 51, and in sub-section (1) thereof, for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted. In sub-section (2) of section 67, for the words "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted. In sub-section (4) or section 73. for the word "Magistrate" the words "Judicial Magistrate" shall be substituted. 1964 : Ph. Act 251 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS 4 365 1953 1955 1958 2 43 15 3 9. [0. the Punjab Sugarcane (Regulation of Purchase and Supply) Act

1953. The Punjab Vaccination Act, 1953. The Punjab Cotton Ginning and Pressing Factories Act, 1953. The Punjab Enterprises Act, 1955. The Punjab Electricity (Duty) Act, 1958. In sub-section (1) of section 74 and section 75. for the "District Magistrate", the words "Chief Judicial Magistrate" shall be substituted. In sub-section (2) of section 79, for the word "Magistrate" the words "Judicial Magistrate" shall be substituted. In section 95, for sub-section the following shall be substituted, namely:— "(3) The Chief Judicial Magistrate may delegate any 'first class.' In clause (c) of sub-section (2) of section 103. for the words "Magistrate" the words "Executive Magistrate" shall be substituted. In sub-section (3) of section 18. for the word "Magistrate" the words "Executive Magistrate" shall be substituted. In sub-section (d), (a) for the words "Magistrate authorised by him". the words "Executive Magistrate authorised by him" shall be substituted; and (b) for the words "the Magistrate shall deal with the "the Magistrate shall deal with the disobedience", the words forward the case to a Judicial Magistrate for dealing with the disobedience" shall be substituted. In section (a) in sub-section (1), for the words "Magistrate of the 'first class" the words "Executive Magistrate of the first class" shall be substituted and (b) in sub-section (2), for the words "Magistrate of the first class". the words "Judicial Magistrate of the first class" shall be substituted. In sub-section (2) of section 15, for the words "Magistrate of the first class", the words "Judicial Magistrate of the first class" shall be substituted. In clause (c) of section 11, the words "before the Magistrate" shall be omitted 366 1 1958 1958 1961 1961 1961 1963 1963 1964 SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS [1964 : Pb. Act 25 2 15 5 13 24 34 24 41 42 20 3 The Punjab Shops and Commercial Establishments Act, [1958. The Nangal Township (Periphery) Control Act

1958. The Punjab Weights and Measures (Enforcement) Act, 1958. The Punjab Compulsory Service Act, 1961. Punjab Fertilizer The Nurseries Act, 1961 The Punjab Slum Areas (Improvement and Clearance) Act, 1961. The Punjab Co. Act

1961. The Talwara Township (Pest-control) Act, 1961. The Punjab Gift Goods (Lien and Possession) Act, 1961. The Punjab Scheduled Roads and Controlled Areas Restriction of Unregulated Development Act, 1963. The Punjab Ayurvedic and Unani Practitioners Act, 1963. Punjab Ancient and Historical Monuments and Archaeological and Remains Act, 1964 4 In sub-section (1) of section 18 and sub-section (2) of section 22, for the word wherever occurring, the words "Judicial Magistrate" shall be substituted. In section 13, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. In sub-section (2) of section 38, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. In sub-section (1) of section 6, the words "by a Magistrate" shall be omitted. In sub-section (2) of section 14, for the word "Magistrate" the words "Judicial Magistrate" shall be substituted. In section 34, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. In sub-section (i) of section 72, for the word substituted. In section 3, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. In sub-section (2) of section 4, for the word "Magistrate" the words "Judicial Magistrate" shall be substituted. In section 15, for the word "Magistrate", twice, the words "Judicial Magistrate" shall be substituted. In sub-section (1) of section 33, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted. In sections 31 and 33, for the word "Magistrate", the words "Judicial Magistrate" shall be substituted.

