

THE UNION TERRITORIES (SEPARATION OF JUDICIAL AND EXECUTIVE FUNCTIONS) ACT, 1969

[Dated : July 29, 2024]

An Act to provide for the separation of judicial and executive functions in Union Territories.

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

- 1. Short title, extent and commencement.**—(1) This Act may be called the Union territories (Separation of Judicial and Executive Functions) Act, 1969.
2. It extends to all Union territories except the Union territory of Chandigarh.
3. It shall come into force in a Union territory to which it extends on such date^[1] ^[2] as the Central Government may, by notification in the Official Gazette, appoint in respect thereof:

Provided that different dates may be appointed for different areas in a Union territory and any reference to the commencement of this Act in relation to a Union territory or an area therein shall mean the date on which it comes into force in that Union territory or area.

2. **Definition.**—In sections 3 to 9, “Union territory” means any Union territory other than the Union territory of Chandigarh.
 3. **Amendments to Code of Criminal Procedure, 1898.**—For the purpose of separation of judicial and executive functions, the Code of Criminal Procedure, 1898^[3] (5 of 1898), shall in its application to a Union territory, be amended in the manner and to the extent specified in the Schedule.
 4. **Amendments not to render invalid notifications, etc. before commencement of Act.**—The provisions of this Act which amend the Code of Criminal Procedure, 1898² (5 of 1898), 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, bye-law, rule or regulation duly made or issued or anything duly done before the commencement of this Act, and any such notification, order, commitment, attachment, bye-law, rule or regulation or thing may be revoked, varied or undone in the like manner, to the like extent and in the like circumstances, as if it had been duly made, issued or done after the commencement of this Act by the competent authority and in accordance with the provisions then applicable to such case.
 5. **Functions exercisable by Judicial and Executive Magistrates.**—Where under any law the functions exercisable by a Magistrate relate to matters which involve the appreciation or sifting of evidence or the formulation of any decision which exposes any person to any punishment, or penalty, or detention in custody pending investigation, inquiry or trial or would have the effect of sending him for trial before any Court, such functions shall, subject to the provisions of this Act and the Code of Criminal Procedure, 1898² (5 of 1898) as amended by this Act, be exercisable by a Judicial Magistrate and where such functions relate to matters which are administrative or executive in nature, such as the grant of a licence, the suspension or cancellation of a licence, sanctioning a prosecution, or
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withdrawing from a prosecution, they shall, subject as aforesaid, be exercisable by an Executive Magistrate.

6. **Repeal of laws in transferred areas in Himachal Pradesh.**—On the commencement of this

Act in the transferred areas in the Union territory of Himachal Pradesh, the Punjab Separation of

Judicial and Executive Functions Act, 1964 (Punjab Act 25 of 1964) and the Code of Criminal Procedure, 1898^[4] (5 of 1898), as in force immediately before such commencement in the said areas shall stand repealed except as respects things done or omitted to be done before such repeal under the said Punjab Act or under the provisions of the laws amended by the said Punjab Act and section 6 of the General Clauses Act, 1897 (10 of 1897), shall apply upon such repeal as if such repeal were a repeal of an enactment by a Central Act; and on such commencement, the said Code as amended by this Act shall extend to, and come into force in, the said areas and the provisions of the laws (other than the said Code) amended by the said Punjab Act shall have effect in the said areas as if such provisions had not been amended by the said Punjab Act.

Explanation.—In this section, “transferred areas” means the territories added to the Union territory of Himachal Pradesh by sub-section (1) of section 5 of the Punjab Reorganisation Act, 1966 (31 of 1966), except the territories comprised in the districts of Lahaul and Spiti.

7. **Saving.**—(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 commencement of this Act;
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- b. any right, privilege obligation or liability already acquired, accrued or incurred before such commencement;
- c. any penalty, forfeiture or punishment incurred or inflicted in respect of any act before such commencement;
- d. any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed in accordance with the provisions of this Act and the Code of Criminal Procedure, 1898¹ (5 of 1898), as amended by this Act.

(2) All legal proceedings pending before a Magistrate or Court immediately before the commencement of this Act shall, if such Magistrate or Court ceases to have jurisdiction in respect of such proceedings under the provisions of the Code of Criminal Procedure, 1898 (5 of 1898) as amended by this Act, stand on such commencement transferred to the Magistrate or Court having jurisdiction under the provisions of the Code of Criminal Procedure, 1898¹ (5 of 1898), as amended by this Act and shall be heard and disposed of by such Magistrate or Court and such Magistrate or Court shall have all the powers and jurisdiction in respect 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, 1898¹ (5 of 1898).

8. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government, in consultation with the High Court having jurisdiction in relation to the Union territory concerned, may, by order, do anything (including the specification of the appropriate Magistrate, whether judicial or executive, having jurisdiction under any law) not inconsistent with such provisions for the purpose of removing the difficulty:

Provided that no such order shall be made after the expiration of three years from the commencement of this Act.

Explanation.— In this section, “High Court” shall have the same meaning as in clause (i) of sub-section (1) of section 4 of the Code of Criminal Procedure, 1898 (5 of 1898).

(2) Every order made under sub-section (1) shall be laid, as soon as may be after it is made before each House of Parliament.

9. Power of Legislative Assembly of Union territory to amend this Act.
—Notwithstanding anything contained in section 21 of the Government of Union Territories Act, 1963 (20 of 1963), the Legislative Assembly of a Union territory may by law amend this Act in its application to that Union territory.

THE SCHEDULE

(See section 3)

AMENDMENTS TO THE CODE OF CRIMINAL P ROCEDURE, 1898

(5 OF 1898)

1. For section 6, the following sections shall be substituted, namely:—

“6. Classes of Criminal Courts.—Besides the High Court and the Courts constituted under any law other than this Code for the time being in force, there shall to be two classes of Criminal Courts, namely:— I. Courts of Session.

II. Courts of Magistrates.

A1.—*Classes of Magistrates*

6A. Classes of Magistrates.—There shall be the following classes of Magistrates, namely:—

I. Judicial Magistrates:

1. Chief Judicial Magistrate
2. Judicial Magistrates of the first class.
3. Judicial Magistrates of the second class.

II. Executive Magistrates:

1. District Magistrates.
2. Sub-divisional Magistrates.
3. Executive Magistrates of the first class.
4. Executive Magistrates of the second class.
5. Special Executive Magistrates.”.

2. In section 7, for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—
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“(2) The State Government, in consultation with the High Court, may alter the limits, or the number, of such divisions and districts.

(3) The sessions divisions and districts existing in any Union territory immediately before the commencement of the Union Territories (Separation of Judicial and Executive Functions) Act, 1969 in that Union territory shall be sessions divisions and districts respectively, unless and until they are altered as provided in sub-section (2).”.

3. In section 9,—

- i. in sub-section (1) after the words “sessions division, and”, the words “, in consultation with the High Court,” shall be inserted ;
- ii. 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
- iv. in sub-section (4), after the words “State Government”, wherever they occur, the words “in consultation with the High Court,” shall be inserted.

4. In section 10,—

- i. for the marginal heading, the following marginal heading shall be substituted, namely:—
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“District Marginal and Chief Judicial Magistrate.”;

- ii. in sub-section (1), for the words “a Magistrate”, the words “an Executive Magistrate” shall be substituted ;
- iii. in sub-section (2), for the words “any Magistrate of the first class”, the words “any Executive Magistrate of the first class” shall be substituted and after that sub-section as so amended, the following sub-sections shall be inserted, namely:—

“(2A) In every district the State Government shall, in consultation with the High Court, invest a judicial Magistrate of the first class with the powers of a Chief Judicial Magistrate under this Code or any other law for the time being in force.

(2B) The State Government may, in consultation with the High Court, appoint any Judicial Magistrate of the first class to be an Additional Chief Judicial Magistrate and such Additional Chief Judicial Magistrate shall have all or any of the powers of a Chief Judicial Magistrate referred to in sub-section (2A) as the State Government may, in consultation with the High Court, direct.”;

- iv. for sub-section (3), the following sub-section shall be substituted, namely:

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“(3) For the purposes of section 88, sub-section (6C), section 406B and section 528, sub-sections (2B) and (3), such Additional District Magistrate shall be deemed to be subordinate to the District Magistrate; and for the purposes of section 88, sub-section (6C), section 192, sub-section (1), section 406B and section 528, sub-sections (2) and (2A), such Additional Chief Judicial Magistrate shall be deemed to be subordinate to the Chief

Judicial Magistrate.”.

5. For section 12, the following section shall be substituted, namely:—

“12. Executive Magistrates and Chief Judicial Magistrates.—(1) The State Government may appoint as many persons as it thinks fit, besides the District Magistrate, to be Executive Magistrates 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.

2. The State Government, in consultation with the High Court, may confer on any person who is a civil Judge or a member of the Judicial Service of a Union territory or a group of such territories, the powers of any class of Judicial Magistrates in any district; and the State Government, in consultation with the High Court, or 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 three years from the commencement of the Union Territories (Separation of Judicial and Executive Functions) Act, 1969, as it may think fit, appoint as many persons, who are members of a civil service in any Union territory or in any State and who are or have been exercising the powers of a Magistrate in such territory or state at or before the commencement of the said Act, as may be considered necessary to be Judicial Magistrates in any district; and the State Government, in consultation with the High
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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 any such definition as is referred to in sub-sections (1), (2) or (3), the jurisdiction and powers of such persons shall extend throughout such district.”.
6. In sub-section (1) of section 13, for the word “Magistrate”, the words “Executive Magistrate” shall be substituted.
7. For section 14, the following section shall be substituted, namely:—

“14. Special Executive Magistrates.—The State Government may appoint

Executive Magistrates for particular areas or for the performance of particular functions and confer on them such powers as it deems fit. Such Magistrates shall be called Special Executive Magistrates and shall be appointed for such term as the State Government may, by general or Special order, direct.”.

8. For sub-section (1) of section 15, the following sub-section shall be substituted, namely:—

“Benches of Judicial Magistrate.—(1) The State Government, in consultation with the High Court, may direct any two or more Judicial Magistrates in any place in a Union territory 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 State Government, in consultation with the High Court, thinks fit.”.

9. In section 16,—

- i. for the words “The State Government may, or, subject to the control of 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 “Magistrate’ Benches”, the words “Judicial Magistrates’ Benches” shall be substituted.

10. For section 17, the following sections shall be substituted, namely:—

“17. Subordination of Judicial Magistrates and Benches to Chief Judicial Magistrates and of Chief Judicial Magistrates and Assistant Sessions Judges to Sessions Judge.—(1) All Judicial Magistrates appointed under sub-sections (2) and (3) of section 12 and all Benches constituted under section 15, shall, subject to the control of the Sessions Judge, be subordinate to the Chief Judicial Magistrate, and the Chief Judicial Magistrate may, from time to time, make rules or give special orders consistent with this Code as to the distributions of business among such Magistrates and Benches.

2. All Chief Judicial Magistrates shall be subordinate to the Sessions Judge.
 3. All Assistant Sessions Judge shall be subordinate to the Sessions Judge in whose Court they exercise jurisdiction, and the sessions
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Judge 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.

17A. Subordination of Executive Magistrates.—(1) All Executive Magistrates appointed under sub-section (1) of section 12, section 13 and section 14 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 Executive Magistrates subordinate to him and as to allocation of business to an Additional District Magistrate.

17B. Courts inferior to High Court and Court of Session.—Courts of Session and Courts of

Judicial and Executive Magistrates shall be Criminal Courts inferior to the High Court and Courts of Judicial and Executive Magistrates shall be Criminal Courts inferior to the Court of Session.”.

11. For sub-section (1) of section 29, the following sub-section shall be substituted, namely:—

“(1) Subject to the other provisions of this Code, any offence under any other law shall, when any Court is mentioned in the this behalf in such law, be tried by such Court:

Provided that if the Court so mentioned is a Court specified in column (1) of the Table below, such offence shall be tried by the Court of the Judicial Magistrate specified against it in column (2), thereof:

TABLE

Name of court specified in the law	Court by which triable
(1)	
(2)	


1. District Magistrate Chief Judicial Magistrate.
 2. Magistrate of the first class Judicial Magistrate of the first class.
 3. Sub-divisional Magistrate Judicial Magistrate of the first class.
 4.  Magistrate of the second class Judicial Magistrate of the second class.
 5. Magistrate of the third class class.
 6. Magistrate (except where it occurs in any expression mentioned above).
Judicial Magistrate.”.
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12. In section 29B, for the words “a District Magistrate or a Chief Presidency Magistrate, or by any Magistrate specially empowered by the State Government”, the words “a Chief Judicial Magistrate or any other Judicial Magistrate specially empowered by the State Government in consultation with the High Court” shall be substituted.

13. For section 30, the following section shall be substituted, namely:—

“30. Offences punishable with imprisonment not excluding seven years.— Notwithstanding anything contained in section 28 or section 29, the State Government, in consultation with the High Court may invest any Chief Judicial Magistrate or any other 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 Chief 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:

Provided further that if any Judicial Magistrate of the first class has, prior to his appointment as such Magistrate, exercised the powers of an Assistant Sessions Judge, he may be invested with the powers under this section notwithstanding the fact that he has not exercised the powers of Magistrate of the first class for not less than ten years.”.

14. In section 32,—

- a. in the marginal heading, for the word “Magistrate”, the words “Judicial Magistrate” shall be substituted;
- b. in the sub-section (1),—
 - i. in the opening sentence, before the word “Magistrates”, the word “Judicial” shall be inserted ;
 - ii. in clause (a), for the words “Courts of Presidency Magistrates and of Magistrates of the first class”, the words “Courts of Judicial Magistrates of the first class” and in clause (b), for the words “Courts of Magistrates”, the words “Courts of Judicial Magistrate” shall be substituted;
 - iii. clause (c) shall be omitted;
- c. in sub-section (2), for the words “any Magistrate”, the words any Judicial Magistrates” shall be substituted.

15. In section 33, in sub-section (1),—

- i. in the marginal heading, for the word “Magistrates”, the words “Judicial Magistrates” shall be substituted ;
 - ii. in the opening paragraph, for the words “any Magistrate the words “any Judicial Magistrate” shall be substituted;
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- iii. in the proviso, in clause (b), for the words “by a Magistrate”, the words “by a Judicial Magistrate” shall be substituted;
16. In the marginal heading of section 34, for the word “District”, the word “Judicial” shall be substituted.
17. In section 36, after the words “District Magistrates”, the words “Chief Judicial Magistrates”, shall be inserted; and for the words “Magistrate of the first, second and third classes”, the words “Judicial and Executive Magistrates of the first and second classes” shall be substituted.
18. For sections 37 and 38, the following sections shall be substituted, namely:—

“37. Additional powers conferable on Magistrates.—In addition to the ordinary powers,—

- i. the State Government, in consultation with the High Court, may invest any

Judicial Magistrate with any of the Powers specified in Part IA of Schedule IV;

- ii. a Chief Judicial Magistrate may invest any Judicial Magistrate within his local jurisdiction with the powers specified in Part IB of Schedule IV;
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- iii. the State Government may invest any Executive Magistrate with any of the powers specified in Part IIA of Schedule IV; and
- iv. a District Magistrate may invest any Executive Magistrate within his local jurisdiction with the powers specified in Part IIB of Schedule IV.

38. Exercise of powers under section 37 by Chief Judicial Magistrate or District Magistrate to be subject to control of High Court or State Government.—The power conferred on the Chief Judicial Magistrate under clause (ii) of section 37 shall be exercised subject to the control of the High Court and the power conferred on the District Magistrate under clause (iv) of that section shall be exercised subject to the control of the State Government.

38A. Power on Judicial Magistrates to be conferred in consultation with High Court.—Whenever under any provisions of this Code or of any other law for the time being in force relating to any of the matters specified in Lists II and III of the Seventh Schedule to the Constitution, any judicial powers are to be conferred on a Sessions Judge, or an Additional or Assistant Sessions Judge or a Chief Judicial Magistrate or any other Judicial Magistrate or any such Magistrate is to be specially empowered to exercise such powers the orders conferring such powers or empowering the exercise of such powers shall be made by the State Government in consultation with 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 State Government in consultation with the High Court and such decision shall be final”.

19. In section 39, to sub section (1), the following proviso shall be added, namely:—
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“Provided that in the case of Judicial Magistrate, the State Government shall confer such powers in consultation with the High Court”.

20. To section 40, the following proviso shall be added, namely:—

“Provided that in the case of Judicial Magistrates no such direction shall be issued except in consultation with the High Court.”.

21. In section 41,—

i. to sub-section (1), the following proviso shall be added, namely:—

“Provided that the State Government shall not withdraw any power conferred on the

Judicial Magistrate except in the consultation with the High Court.”;

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

“(2) Any powers conferred by the Chief Judicial Magistrate or the District Magistrate may be withdrawn by him.”.

22. In section 57,—

i. in sub-section (2), for the words “a Magistrate”, the words “a Judicial Magistrate having jurisdiction” shall be substituted;

ii. in sub- section (3), for the word “Magistrate”, the words “Judicial Magistrate” shall be substituted.

23. In section 63, for the word “Magistrate”, the words “Magistrate having jurisdiction” shall be substituted.

24. For Sub-section (1) of section 78, the following sub-section shall be substituted, namely:—

“(1) A District Magistrate or a Chief Judicial Magistrate or any other Judicial Magistrate of the first class or a Sub-divisional Magistrate may direct a warrant to any landholder, farmer or manager of land within the area of his jurisdiction for the arrest of an escaped convict, proclaimed offender or person who has been accused of a non-bailable offence, and who has eluded pursuit.”.

25. In section 88,—

a. in sub-section (2) after the words “District Magistrate”, the words “or Chief Judicial Magistrate” shall be inserted;

b. in sub-section (6B) after the words “District Magistrate”, the words “or Chief Judicial Magistrate” shall be inserted; and

c. for the proviso to sub-section (6C), the following proviso shall be substituted, namely:—

“Provided that if it is preferred or made in the Court of a District Magistrate or Chief Judicial Magistrate, he may make it over for disposal to any Magistrate subordinate to him, and such 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 Magistrate and the claim or objection had been originally preferred or made before him.”.

26. In section 95, after the words “District Magistrate”, wherever they occur the words “Chief Judicial Magistrate”, shall be inserted.

27. In sub-section (2) of section 96, after the words “District Magistrate”, the words “or Chief Judicial Magistrate” shall be inserted.

28. In section 98, after the words “District Magistrate”, wherever they occur the words “Chief Judicial Magistrate”, shall be inserted.

29. 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.

30. In sections 107, 108 and 109, for the words “Magistrate of the first class” and in the section 110 for the words “a Magistrate of the first class”, the words “an Executive Magistrate of the first class” shall be substituted.

31. In section 124,—

- i. for the words “Chief Presidency”, whenever they occur, the words “Chief Judicial” shall be substituted;
- ii. in sub-section (1), for the words “under this Chapter”, the words and figures “under section 118 or, as the case may be, under section 106” shall be substituted; and
- iii. in sub-section (2), for the words “under this Chapter”, the words and figures “under section 106 or, as the case may be, under section 118,” shall be substituted.

32. For section 125, the following section shall be substituted, namely:—

“125. Power of Chief Magistrate to cancel any bond for keeping the peace and of District

Magistrate to cancel any Bond for keeping the peace or for good behaviour.—
The Chief

Judicial Magistrate may, at any time, for sufficient reasons to be recorded in writing, cancel any bond for keeping the peace executed under section 106 and the District Magistrate may at any time likewise cancel any bond for keeping the peace or for good behaviour executed under section 118 by order of any court in his district not superior to his Court.”.

33. In section 126,—

- i. in sub-section (1), for the words “to a Presidency Magistrate, District Magistrate, Sub-divisional Magistrate or Magistrate of the first
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class”, the words and figures “to the Court by which an order to give security was made under section 106 or section 118” shall be substituted and for the word “his”, the word “its” shall be substituted; and

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

“(2) On such application being made, the Court shall issue summons or warrant, as it thinks fit, requiring the person for whom such surety is bound to appear or to be brought before it.”.

34. In sections 127, 128, 129 and 132, for the word “Magistrate”, the words

“Executive Magistrate” shall be substituted; in sections 130 and 131, for the words “a Magistrate” the words “an Executive Magistrate” and in section 131, for the words “no Magistrate”, the words “no Executive Magistrate” shall be substituted.

35. In section 133,—

- i. in the opening paragraph of sub-section (1) and in sub-section (2), for the words “a Magistrate”, the words “an Executive Magistrate” shall be substituted; and
 - ii. in the closing paragraph of sub-section (1), for the words “Magistrate of the first or second class”, the words “Executive Magistrate” shall be substituted.
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36. In section 143, for the words “any other Magistrate”, the words “any other Executive Magistrate” shall be substituted.
37. In 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.
38. 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.
39. In sub-section (1) of section 155, the words “having power to try such case or commit the same for trial” shall be inserted at the end.
40. For sub-section (1) of section 164, the following sub-sections shall be substituted, namely:—

“(1) Any Judicial Magistrate of the first class or any Judicial Magistrate of the second class specially empowered in this behalf by the State Government in consultation with the High Court, may record any statement or confession made to him in the course of an investigation under this Chapter or under any other law for the time being in force or at any time afterwards before the commencement of the inquiry or trial.

(1A) Any Executive Magistrate of the first class or of the second class (not being a police officer) may be specially empowered by the State Government to record such statements or confessions if that Government for reasons to be recorded in writing considers it necessary so to do.”.

41. In section 167,—

- i. for the proviso to sub-section (2), the following proviso shall be substituted, namely:—

“Provided that no Executive Magistrate of the second class not specially empowered in this behalf by the State Government, and no Judicial Magistrate of the second class not specially empowered in the behalf by the State Government to consultation with the High Court, shall authorise detention in the custody of the police.”; and

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

“(4) 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 other than the Chief Judicial Magistrate, he shall forward a copy of his order, with his reasons for making it, to the Chief Judicial Magistrate.”.

42. In sub-section (3) of section 170, for the words “District Magistrate or Sub-divisional Magistrate”, the words “Chief Judicial Magistrate” shall be substituted.

43. 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.
44. Section 176A which applies only to the Union territory of the Laccadive, Minicoy and Amindevi Islands shall be omitted.
45. In sub-section (1) of section 186, for the words “a Presidency Magistrate, a District

Magistrate, a Sub-divisional Magistrate, or, if he is specially empowered in this behalf by the State Government, a Magistrate of the first class”, the words “a District Magistrate, a sub-divisional Magistrate, or, if he is specially empowered in this be
