

The Code of Criminal Procedure (Gujarat Amendment) Act, 1963

50 of 1963

Keyword(s):

Code of Criminal Procedure, Warrant, Bail, Custody, Accused, Police

Amendments appended: 21 of 1976, 30 of 1976, 31 of 2003

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filed as a separate compilation

PART IV

**Acts of the Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

The following Act of the Gujarat Legislature, having been assented to by the President on the 13th November 1963, is hereby published for general information.

AKBAR S. SARELA,
Secretary to the Government of Gujarat,
Legal Department.

GUJARAT ACT NO. L OF 1963

[First published, after having received the assent of the President in the Gujarat Government Gazette on the 15th November 1963.]

An Act further to amend the Code of Criminal Procedure, 1898, in its application to the State of Gujarat.

It is hereby enacted in the Fourteenth Year of the Republic of India as follows :—

1. This Act may be called the Code of Criminal Procedure (Gujarat Amendment) Act, 1963.

2. In section 514 of the Code of Criminal Procedure, 1898, in its application to the State of Gujarat, (hereinafter referred to as "the said Code"), for sections (2), (3) and (4), the following shall be substituted, namely :—

Amendmen
of section
514 of Act,
V of 1898

"(2) If sufficient cause is not shown and the penalty is not paid, the Court may proceed to recover the same in either or both of the following ways, that is to say, it may —

(a) issue a warrant for the levy of the amount by attachment and sale of any moveable property belonging to such person;

(b) issue a warrant to the Collector of the District authorising him to realise the amount by execution according to civil process against the moveable or immoveable property, or both, of such person.

(3) The State Government may make rules regulating the manner in which warrants under sub-section (2), clause (a), are to be executed and for the summary determination of any claims made by any person other than the person bound by the bond in respect of any property attached in execution of such warrant.

(4) Where the Court issues a warrant to the Collector under sub-section (2), clause (b), such warrant shall be deemed to be a decree, and the Collector to be the decree-holder, within the meaning of the Code of Civil Procedure, 1908, and the nearest Civil Court by which any decree for a like amount could be executed shall, for the purposes of the said Code, be deemed to be the Court which passed the decree, and all the provisions of that Code as to execution of decrees shall apply accordingly.

Provided that no such warrant shall be executed by the arrest or detention in prison of the person so bound.

(4A) If such penalty is not paid and cannot be recovered in the manner stated in sub-section (2), the person so bound shall be liable, by order of the Court which ordered the payment of the penalty, to imprisonment in the civil jail for a term which may extend to six months."

Amendment
of Schedule
II to Act
V of 1898.

3. In Schedule II to the said Code, in column 5,—

(a) in the entry relating to section 324, for the word "Ditto" the words "Not bailable" shall be substituted;

(b) in the entry relating to section 325, for the word "Ditto" the word "Bailable" shall be substituted.

Amendment
of Schedule
V to Act V
of 1898.

4. In Schedule V to the said Code,—

(a) in Form XLVIII, for the words "by attachment and sale of moveable property of his" the words, brackets and figures "in the manner stated in sub-section (2) of section 514 of the Code of Criminal Procedure, 1898" shall be substituted;

(b) in each of Forms LI and LIII, for the words "by attachment of his moveable property" the words, brackets and figures "in the manner stated in sub-section (2) of section 514 of the Code of Criminal Procedure, 1898" shall be substituted.



Extra No. 6

REGISTERED NO. LI/50/GNR/2



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FRIDAY, MAY 7, 1976/VAISAKHA 17, 1898

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PART VI

Acts of Parliament and Ordinances promulgated by the President.

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, 7th May, 1976.

No. 16109 /B.—The following President's Act assented on the 7th May 1976, is published for general information.

**THE CODE OF CRIMINAL PROCEDURE (GUJARAT AMENDMENT)
ACT, 1976.**

[Act No. 21 of 1976]

Enacted by the President in the Twenty-seventh Year of the Republic of India.

AN ACT

*to amend the Code of Criminal Procedure, 1973, in its application to the State
of Gujarat.*

44 of 1976. In exercise of the powers conferred by section 3 of the Gujarat State Legislature (Delegation of Powers) Act, 1976, the President is pleased to enact as follows :—

109 G.U.J. GOVT. GAZ., EX., MAY 7, 1976, VAISAKHA 17, 1898

[PART VI

Short title
and commen-
cement.

1. (1) This Act may be called the Code of Criminal Procedure (Gujarat Amend-
ment) Act, 1976.

(2) It shall come into force at once.

Amendment
of section
167.

2. In the proviso to sub-section (2) of section 167 of the Code of Criminal² of
Procedure, 1973, in its application to the State of Gujarat,—

(i) for paragraph (a), the following paragraph shall be substituted, namely :—

“(a) the Magistrate may authorise detention of the accused person, other-
wise than in the custody of the police, beyond the period of fifteen days,
if he is satisfied that adequate grounds exist for doing so, but no Magistrate
shall authorise the detention of the accused person in custody under this
section for a total period exceeding,—

(i) one hundred and twenty days, where the investigation relates to an
offence punishable with death, imprisonment for life or imprisonment for
a term of not less than ten years ;

(ii) sixty days, where the investigation relates to any other offence;

and, on the expiry of the said period of one hundred and twenty days,
or sixty days, as the case may be, the accused person shall be released
on bail if he is prepared to and does furnish bail ; and every person released
on bail under this section shall be deemed to be so released under the
provisions of Chapter XXXIII for the purposes of that Chapter;”;

(ii) in paragraph (b), for the words “no Magistrate shall”, the words “no
Magistrate shall, except for reasons to be recorded in writing,” shall be sub-
stituted ;

(iii) the Explanation shall be numbered as Explanation II, and, before
Explanation II as so numbered, the following Explanation shall be inserted,
namely :—

“*Explanation I.*—For the avoidance of doubts, it is hereby declared that,
notwithstanding the expiry of the period specified in paragraph (a), the
accused person shall be detained in custody so long as he does not furnish
bail.”

Amendment
to apply to
pending inve-
stigations.

3. The provisions of section 167 of the Code of Criminal Procedure, 1973, as² of
amended by this Act, shall apply to every investigation pending immediately 1974.
before the commencement of this Act, if the period of detention of the accused
person, otherwise than in the custody of the police, authorised under that section,
had not, at such commencement, exceeded sixty days.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secretary to the Government of India,



REASONS FOR THE ENACTMENT

Under section 167 of the Code of Criminal Procedure, 1973, a person who is detained in custody during the investigation of a case is entitled to be released on bail on the expiry of 60 days. This provision has caused difficulties in complicated and serious cases where, for reasons beyond the control of the investigating officers, the investigation takes more time. It is, therefore, proposed to remove this difficulty by enlarging the time limit to 120 days in serious cases and to provide that the magistrate may, in suitable cases and for reasons to be recorded in writing, dispense with the production of the accused at the time when the order for remand is made.

2. In view of the urgency of the matter, it is not practicable to consult Consultative Committee of Parliament on Gujarat Legislation constituted under proviso to sub-section (2) of section 3 of the Gujarat State Legislature (Delegation of Powers) Act, 1976. The measure is accordingly being enacted without reference to the Consultative Committee.

S. BALAKRISHNAN,
Joint Secretary to the Govt. of India,
Mini. of Home Affairs.

By order and in the name of the Governor of Gujarat,

J. P. VASAVADA,
Deputy Secretary to Government.



Extra No. 10

REGISTERED No. LI/50/GNR/2



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PART VI

Acts of Parliament and Ordinances promulgated by the President

GOVERNMENT OF GUJARAT

LEGAL DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 7th July, 1976.

No. 1023/B.—The following President's Act assented on the 7th July, 1976, is published for general information.

THE CODE OF CRIMINAL PROCEDURE (GUJARAT SECOND AMENDMENT) ACT, 1976.

[Act No. 30 of 1976.]

Enacted by the President in the Twenty-seventh Year of the Republic of India.

AN ACT

further to amend the Code of Criminal Procedure, 1973, in its application to the State of Gujarat.

In exercise of the powers conferred by section 3 of the Gujarat State Legislature (Delegation of Powers) Act, 1976, the President is pleased to enact as follows:—

44 of
1976.

1. (1) This Act may be called the Code of Criminal Procedure (Gujarat Second Amendment) Act, 1976.

(2) It shall come into force at once.

Short
title and
commence-
ment.

Amend-
ment of
section 209.

2. In section 209 of the Code of Criminal Procedure, 1973, in its application^{2 of 1974.} to the State of Gujarat, for clause (a), the following clause shall be substituted, namely:—

“(a) commit the case, after complying with the provisions of section 207 or section 208, as the case may be, to the Court of Session, and, subject to the provisions of this Code relating to bail, remand the accused to custody until such commitment has been made;”.

FAKHRUDDIN ALI AHMED,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

REASONS FOR THE ENACTMENT

Under section 209 of the Code of Criminal Procedure, 1973, when a person accused of an offence, triable exclusively by the Court of Session, appears or is brought before the Magistrate, the Magistrate has to commit the case to the Court of Session. In such a case, the Magistrate has no power to make an order for remand. Since under section 207 or section 208, the copies of certain documents are to be supplied to the accused and such supply of documents might take some time, order for the remand of the accused to custody becomes necessary. Section 209 is, therefore, sought to be amended to enable the Magistrate to remand the accused to the custody until the commitment is made. Section 209, as applicable to the State of Gujarat, is, therefore, proposed to be amended by a President's Act. The Bill mainly seeks to achieve the said object.

2. In view of the urgency of the matter, it is not practicable to consult the Consultative Committee of Parliament on Gujarat Legislation. The measure is accordingly being enacted without reference to the Consultative Committee.

S. L. KHURANA,
*Secretary to the Govt. of India,
Ministry of Home Affairs.*

By order and in the name of the Governor of Gujarat,

S. L. TALATI,
Secretary to Government.

Extra No. 34

REGISTERED No. G/GNR/2

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PART IV

Acts of Gujarat Legislature and Ordinances promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the President on the 17th October, 2003 is hereby published for general information.

V. M. KOTHARE,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 31 OF 2003.

(First published, after having received the assent of the President in the "Gujarat Government Gazette", on the 18th October, 2003).

AN ACT

further to amend the Code of Criminal Procedure, 1973 in its
application to the State of Gujarat.

It is hereby enacted in the Fifty-fourth Year of the Republic of India as
follows:-

1. (1) This Act may be called The Code of Criminal Procedure (Gujarat
Amendment) Act, 2003.

(2) It shall be deemed to have come into force on the 16th August, 2003.

Short title
and
commence-
ment.



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GUJARAT GOVERNMENT GAZETTE, Ex. 18-10-2003

[PART-IV

**Amendment
of section
167 of Act
2 of 1974.**

2. In the Code of Criminal Procedure, 1973 (hereinafter referred to as "the principal Act") in its application to the State of Gujarat, in section 167, in sub-section (2)-

2 of 1974.

(1) in the proviso, for paragraph (b), the following paragraph shall be substituted, namely:-

“(b) no Magistrate shall authorise further detention in any custody under this section unless-

(i) where the accused is in the custody of police, he is produced in person before the Magistrate, and

(ii) where the accused is otherwise than in the custody of the police, he is produced before the Magistrate either in person or through the medium of electronic video linkage, in accordance with the direction of the Magistrate.”;

(2) in Explanation II, after the words “whether an accused person was produced before the Magistrate”, the words “in person or, as the case may be, through the medium of electronic video linkage” shall be inserted.

**Repeat
and
savings.**

3. (1) The Code of Criminal Procedure (Gujarat Amendment) Ordinance, 2003 is hereby repealed.

**Guj. Ord.
3 of 2003.**

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.