

THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) BILL, 2022

(BILL NO. 08 OF 2022)

A BILL

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

Be it enacted by the Legislature of Sikkim in the Seventy-third Year of the Republic of India as follows:-

Short title and
Commencement

1. (1) This Act may be called the Code of Criminal Procedure Sikkim (Amendment) Act, 2022.
- (2) It shall come into force on the date of its publication in the official gazette.

Amendment of
section 24

2. In the Code of Criminal Procedure, 1973(hereinafter referred to as the "said Act"), in section 24,-
 - (i) in sub-section (1), the words "after consultation with the High Court", shall be omitted;
 - (ii) in sub-section (4), for the words "the District Magistrate shall, in consultation with the Sessions Judge", the words "the Director of Prosecution in consultation with Legal Remembrancer-cum-Secretary, Law Department" shall be substituted.

Amendment of
section 25

3. In the said Act,
 - (i) in sub-section (3) of section 25 for the words "District Magistrate" the words "Director of Prosecution" shall be substituted.

Substitution of
section 25A

4.

In the said Act, for the existing section 25A, the following shall be substituted, namely :-

"25A. Directorate of Prosecution - (1) The State Government may establish a Directorate of Prosecution consisting of a Director of Prosecution and such other officers as may be prescribed.

(2) The post of Director of Prosecution and all other officers mentioned in sub-section (1) shall be filled in such manner as may be prescribed.

(3) The powers and functions of the officer heading the Directorate of Prosecution and other officers shall be such as State Government may, by notification, prescribe.

(4) The Head of the Directorate of Prosecution shall be the Director of Prosecution, who shall function under the administrative control of the Head of the Home Department in the state.

(5) Every Public Prosecutor, Additional Public Prosecutor, referred to in sub-section (1) and sub-section (3) of section 24, and the Assistant Public Prosecutor referred to in sub-section (1) of section 25 shall be appointed under the rules to be framed in this regard and all other officers in the Directorate of Prosecution shall be subordinate to the officer heading the Directorate of Prosecution, and includes Special Public Prosecutor appointed under sub-section (8) of section 24 to conduct cases in the District Court and every Special Public Prosecutor appointed under sub-section (8) of section 24 to conduct cases in the High Court shall be subordinate to the Director of Prosecution."

STATEMENT OF OBJECTS AND REASONS

Whereas, it was felt necessary and expedient to amend the Code of Criminal Procedure, 1973 in its application to the State of Sikkim.

And whereas, the bill seeks to amend section 24, section 25 and section 25A of the Code of Criminal Procedure, 1973 in its application to the State of Sikkim.

And whereas, through this bill the State Government seeks to amend section 24 of the Code of Criminal Procedure, 1973 to appoint a Public Prosecutor or Additional Public Prosecutor for conducting a case in such Court, any prosecution, appeal or other proceedings on behalf of the State Government through the Directorate of Prosecution.

And whereas, the bill also seeks to substitute section 25A of the Code of Criminal Procedure, 1973 relating to establishment of Directorate of Prosecution and appointment of Director of Prosecution and other officer.

And whereas, the bill also seeks to specify the powers and functions of the officer heading the Directorate of Prosecution.

With this objective in view, the bill has been framed.



(P.S. TAMANG)

MINISTER-IN-CHARGE

HOME DEPARTMENT

Chief Minister

Government of Sikkim

FINANCIAL MEMORANDUM

-NIL-

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 25A (2) empowers the State Government to prescribe the manner in which the post of Director of Prosecution and all other officers may be filled.

Clause 25(3) empowers the State Government to prescribe the powers and functions of the officer heading the Directorate of Prosecution and such other officers.

Clause 25(5) empowers the State Government to frame rules for appointment of Public Prosecutor, Additional Public Prosecutor and Assistant Public Prosecutors.



(P. S. TAMANG)
MINISTER-IN-CHARGE
HOME DEPARTMENT
Chief Minister
Government of Sikkim