

**Amendment in Sections 427, 428,429 & 435
of the Pakistan Penal Code, 1860**

Report No.57

Amendment in Sections 427, 428, 429 & 435 of the Pakistan Penal Code 1860

The Pakistan Penal Code 1860 (hereinafter referred to as Penal Code) provides punishment for acts of mischief by damaging or destroying property or killing animals. Such offences together with their aggravated forms are mentioned in Sections 425 to 440 of the Penal Code.

Section 425 defines the offence of mischief as under—

Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public, or to any person, causes the destruction of any property, or any such change in any property or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits “mischief”.

Explanation 1.—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he intends to cause, or knows that he is likely to cause, wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation 2.—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

Section 426 provides punishment for the offence of mischief as under:-

Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Sections 427, 428, 429 & 435 describe the aggravated forms of mischief by prescribing the value of the property or animals destroyed or damaged by the act of mischief. Such aggravated forms of offences attract higher punishments through imprisonment of various periods as well as fine. The value of the property or animals was fixed, keeping in view the value of the currency in 1860 when the Penal Code was enacted. Such values have since never been revised. With passage of time and constant devaluation of currency, the value/price of property and animals have considerably increased. They are not commensurate with this present day market price/value. As such the punishments prescribed for aggravated forms of offences appear to be disproportionate, indeed harsh. The relevant Sections may be quoted below:

Section 427. Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 428. Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Section 429. Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Section 435. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards or where the property is agricultural produce ten rupees or upwards, shall be punished with imprisonment of either description for a term which shall not be less than two years nor more than seven years and shall also be liable to fine.

In Section 427, the value of property of amount of fifty rupees is now too small and the punishment prescribed i.e. imprisonment for upto two years appears to be disproportionately higher, therefore, it is proposed to enhance the said amount to one thousand rupees.

In Section 428, the punishment prescribed is upto two years imprisonment or fine or both for the offence of killing any animal of the value of ten rupees or upward. This amount is also too small and needs to be enhanced. It is therefore proposed to enhance the value of the animal to rupees five hundred.

Similarly, **in Section 429,** the value of the animals fixed as fifty rupees is too inadequate, especially when the other category of animals mentioned are elephant, camel, buffalo, etc. It is, therefore, proposed to enhance the sum of fifty rupees to five thousand rupees.

Likewise, **in Section 435,** the sums of one hundred rupees and ten rupees are also too inadequate, as the price/cost of property has escalated manifold. These sums therefore should also be enhanced to two thousand rupees and five hundred rupees respectively. The proposed increased in value of property/animals is indicated in the table follows:-

Comparative Statement showing the existing and proposed provisions of the Pakistan Penal Code

Existing Provision	Proposed Provision
<p>Section 427 Whoever commits mischief and thereby causes loss or damage to the amount of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.</p>	<p>Section 427 Whoever commits mischief and thereby causes loss or damage to the amount of one thousand rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.</p>
<p>Section 428 Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of ten rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.</p>	<p>Section 428 Whoever commits mischief by killing, poisoning, maiming or rendering useless any animal or animals of the value of five hundred rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.</p>
<p>Section 429 Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of fifty rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.</p>	<p>Section 429 Whoever commits mischief by killing, poisoning, maiming or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow or ox, whatever may be the value thereof, or any other animal of the value of five thousand rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.</p>
<p>Section 435 Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will</p>	<p>Section 435 Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he</p>

thereby cause, damage to any property to the amount of one hundred rupees or upwards or where the property is agricultural produce ten rupees or upwards, shall be punished with imprisonment of either description for a term which shall not be less than two years nor more than seven years and shall also be liable to fine.	will thereby cause, damage to any property to the amount of two thousand rupees or upwards or where the property is agricultural produce five hundred rupees or upwards, shall be punished with imprisonment of either description for a term which shall not be less than two years nor more than seven years and shall also be liable to fine.
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The Commission considered the proposal and approved the draft amendment Bill as at Annex seeking to rationalise by enhancing the sums/value of the property given in the said Sections to modernise the law and bring it in accord with the present day realities.

**A
Bill**

further to amend the Pakistan Penal Code 1860

Whereas it is expedient further to amend the Pakistan Penal Code (Act XLV of 1860), for the purposes hereinafter appearing;

It is hereby enacted as follows:-

1. **Short title and commencement.**- (1) This Act may be called the Pakistan Penal Code (Amendment) Act, 2003.

(2) It shall come into force at once

2. **Amendment of Section 427, Act XLV of 1860.**- In the Pakistan Penal Code, 1860(XLV of 1860) hereinafter referred to as the said Act, in Section 427, for the word "fifty" the words "one thousand" shall be substituted.

3. **Amendment of Section 428, Act XLV of 1860.**- In the said Act, in Section 428 for the word "ten" the words "five hundred" shall be substituted.

4. **Amendment of Section 429, Act XLV of 1860.**- In the said Act, in Section 429 for the word "fifty" the words "five thousand" shall be substituted.

5. **Amendment of Section 435, Act XLV of 1860.**- In the said Act, in Section 435, for the words "one hundred" the words "two thousand" and for the word "ten" the words "five hundred" shall be substituted.

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