

# The Enemy Agents Ordinance, 1943

( Ordinance NO. I OF 1943 )

## **An Ordinance to provide for the trial and punishment of enemy agents and persons committing certain offences with intent to aid the enemy.<sup>1♣</sup>**

WHEREAS an emergency has arisen which makes it necessary to provide for the trial and punishment of enemy agents and persons committing certain offences with intent to aid the enemy;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor-General is pleased to make and promulgate the following Ordinance:-

### **Short title, extent and commencement**

1. (1) This Ordinance may be called the Enemy Agents Ordinance, 1943.

(2) It extends to the whole of Bangladesh and applies also-

(i) to all citizens of Bangladesh and persons in the service of Government wherever they may be; and

(ii) to persons on board any ship or aircraft registered in Bangladesh.

(3) It shall come into force at once.

### **Definitions**

2. In this Ordinance, unless there is anything repugnant in the subject or context,-

(a) "enemy" means any State at war with Bangladesh;

(b) "enemy agent" means a person, not operating as a member of an enemy armed force, who is employed by, or works for, or acts on instructions received from, the enemy.

### **Penalty for aiding the enemy**

3. Whoever is an enemy agent, or, with intent to aid the enemy, does, or attempts or conspires with any other person to do, any act which is

The Enemy Agents Ordinance, 1943  
 designed or likely to give assistance to the naval, military or air operations of the enemy or to impede the naval, military or air operations of the Armed Forces of Bangladesh or the forces of a foreign power allied with Bangladesh <sup>2</sup>[\* \* \*] or to endanger life, shall be punishable with death.

**Offences triable under this Ordinance**

4. (1) Any offence punishable under section 3 committed at any time after the 2nd day of September, 1939, whether committed before or after the commencement of this Ordinance, shall be triable under the provisions of this Ordinance.

(2) Where a person is charged before a Special Judge with an offence punishable under section 3, he may be charged with and tried at the same trial for any other offence with which he might, under the Code of Criminal Procedure, 1898, be charged at one trial, and the procedure of this Ordinance shall apply to the trial of any such other offence.

**Appointment and jurisdiction of Special Judges**

5. (1) For the trial of offences punishable under section 3, the Government may appoint as Special Judges, having jurisdiction throughout Bangladesh, any persons who have acted for a period of not less than two years in the exercise of the powers of a Sessions Judge or an Assistant Sessions Judge under the Code of Criminal Procedure, 1898.

(2) A Special Judge shall try any offence punishable under section 3 which the Government by general or special order in writing directs to be tried by him, and may hold his sittings for the trial of any case in any place fixed by the Government.

**Transfer of cases from one Special Judge to another**

6. (1) The Government may, at any stage of the proceedings before a Special Judge, transfer the case to another Special Judge.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, when a case is transferred under sub-section (1), the Special Judge to whom the case is transferred shall not be bound to re summon or re hear the witnesses or any of them unless he is satisfied that such a course is necessary in the interests of justice.

**Procedure  
of Special  
Judges**

7. (1) A Special Judge may take cognizance of an offence without the accused being committed to his Court for trial, and, in trying accused persons, shall follow the procedure prescribed by the Code of Criminal Procedure, 1898, for the trial of warrant cases by Magistrates:

Provided that a Special Judge shall ordinarily record a memorandum only of the substance of the evidence of each witness examined, may refuse to summon any witness if satisfied after examination of the accused that the evidence of such witness will not be material, and shall not be bound to adjourn any trial for any purpose unless such adjournment is in his opinion necessary in the interests of justice.

(2) In matters not coming within the scope of sub section (1) the provisions of the Code of Criminal Procedure, 1898, so far as they are not inconsistent with this Ordinance, shall apply to the proceedings of a Special Judge; and for the purposes of the said provisions the Court of the Special Judge shall be deemed to be a Court of Session.

**Sentences  
by Special  
Judges**

8. A Special Judge may pass any sentence authorised by law.

**Review of  
convictions**

9. (1) If in any proceedings before a Special Judge-

(a) a person convicted is sentenced to death, or to transportation for life, or

(b) though no person is so sentenced, the Special Judge certifies that in his opinion the case has involved questions of special difficulty, whether of law or fact, or is one which for any other reason ought properly to be reviewed,

the proceedings shall be submitted for review by a person appointed in this behalf by the Government, which person shall be chosen from the Judges of <sup>3</sup>[the Supreme Court], and the decision of that person shall be final.

(2) Where any proceedings are so submitted for review, the Judge reviewing the proceedings may, exercise in his discretion any of the powers exercisable under section 439 of the Code of Criminal Procedure,