

The Special Powers Act, 1974

(ACT NO. XIV OF 1974)

An Act to provide for special measures for the prevention of certain prejudicial activities, for more speedy trial and effective punishment of certain grave offences and for matters connected therewith.

WHEREAS it is expedient to provide for special measures for the prevention of certain prejudicial activities, for more speedy trial and effective punishment of certain grave offences and for matters connected therewith;

It is hereby enacted as follows:-

Short title

1. This Act may be called the Special Powers Act, 1974.

Definitions

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

(a) “Code” means the Code of Criminal Procedure, 1898 (V of 1898);

(b) “dealing in the black-market” means selling or buying anything for purposes of trade at a price higher than the maximum price fixed by or under any law, or, otherwise than in accordance with any law,-

(i) selling, bartering, exchanging, supplying or disposing of articles rationed by or under any such law; or

(ii) using or dealing with any licence, permit or ration document issued by or under any such law;

(c) “detention order” means an order of detention made under section 3;

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(e) “hoarding” means stocking or storing anything in excess of the maximum quantity of that thing allowed to be held in stock or storage at any one time by any person by or under any law;

(f) “prejudicial act” means any act which is intended or likely-

(i) to prejudice the sovereignty or defence of Bangladesh;

(ii) to prejudice the maintenance of friendly relations of Bangladesh with foreign states;

(iii) to prejudice the security of Bangladesh or to endanger public safety or the maintenance of public order;

(iv) to create or excite feelings of enmity or hatred between different communities, classes or sections of people;

(v) to interfere with or encourage or incite interference with the administration of law or the maintenance of law and order;

(vi) to prejudice the maintenance of supplies and services essential to the community;

(vii) to cause fear or alarm to the public or to any section of the public;

(viii) to prejudice the economic or financial interests of the State;

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(h) “prescribed” means prescribed by rules made under this Act.

Power to make orders detaining or removing certain persons

3. (1) The Government may, if satisfied with respect to any person that with a view to preventing him from doing any prejudicial act it is necessary so to do, make an order-

(a) directing that such person be detained;

(b) directing him to remove himself from Bangladesh in such manner, before such time and by such route as may be specified in the order:

Provided that no order of removal shall be made in respect of any citizen of Bangladesh.

(2) Any District Magistrate or Additional District Magistrate may, if satisfied with respect to any person that with a view to preventing him from doing any prejudicial act within the meaning of section 2(f) (iii), (iv), (v), (vi), (vii)

or (viii) it is necessary so to do, make an order directing that such person be detained.

(3) When any order is made under sub-section (2), the District Magistrate or the Additional District Magistrate making the order shall forthwith report the fact to the Government together with the grounds on which the order has been made and such other particulars as, in his opinion, have a bearing on the matter, and no such order shall remain in force for more than thirty days after the making thereof unless in the meantime it has been approved by the Government.

(4) If any person fails to remove himself from Bangladesh in accordance with the direction of an order made under sub-section (1) (b), then, without prejudice to the provisions of sub-section (5), he may be so removed by any police officer or by any person authorised by the Government in this behalf.

(5) If any person contravenes any order made under sub-section (1) (b), he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

Execution of detention orders

4. A detention order may be executed at any place in Bangladesh in the manner provided for the execution of warrants of arrest under the Code.

Power to regulate place and conditions of detention

5. Every person in respect of whom a detention order has been made shall be liable-

(a) to be detained in such place and under such conditions, including conditions as to discipline and punishment for breaches of discipline, as the Government may, by general or special order specify; and

(b) to be removed from one place of detention to another place of detention by order of the Government.

Detention orders not to be invalid or inoperative

6. No detention order shall be invalid or inoperative merely by reason that the person to be detained thereunder is outside the limits of the territorial jurisdiction of the Government or the District Magistrate or Additional

on certain grounds

District Magistrate making the order, or that the place of detention of such person is outside the said limits.

Powers in relation to absconding persons

7. If the Government or a District Magistrate or an Additional District Magistrate mentioned in section 3(2), as the case may be, has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, it or he may-

(a) make a report in writing of the fact to a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 87, 88 and 89 of the Code shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate;

(b) by order notified in the official Gazette direct the said person to appear before such officer, at such place, and within such period as may be specified in the order; and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply therewith and that he had, within the period specified in the order, inform the officer of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

Communication of grounds of order

8. (1) In every case where an order has been made under section 3, the authority making the order shall, as soon as may be, but subject to the provisions of sub-section (2), communicate to the person affected thereby the grounds on which the order has been made to enable him to make a representation in writing against the order, and it shall be the duty of such authority to inform such person of his right of making such representation and to afford him the earliest opportunity of doing so:

Provided that nothing in this section shall require the authority to disclose the facts which it considers to be against the public interest to disclose.

(2) In the case of a detention order, the authority making the order shall inform the person detained under that order of the grounds of his detention at the time he is detained or as soon thereafter as is practicable, but not later than fifteen days from the date of detention.

**Constitution
of Advisory
Board**

9. (1) The Government shall, whenever necessary, constitute an Advisory Board for the purposes of this Act.

(2) The Advisory Board shall consist of three persons, of whom two shall be persons who are, or have been, or are qualified to be appointed as, Judges of the ³[High Court] and the other shall be a person who is a senior officer in the service of the Republic, and such persons shall be appointed by the Government.

(3) The Government shall appoint one of the members of the Advisory Board who is, or has been, or is qualified to be appointed as, a Judge of the ⁴[High Court] to be its Chairman.

**Reference
to Advisory
Board**

10. In every case where a detention order has been made under this Act, the Government shall, within one hundred and twenty days from the date of detention under the order, place before the Advisory Board constituted under section 9 the grounds on which the order has been made and the representation, if any, made by the person affected by the order.

**Procedure
of Advisory
Board**

11. (1) The Advisory Board shall, after considering the materials placed before it and calling for such further information as it may deem necessary from the Government or from the person concerned and after affording the person concerned an opportunity of being heard in person, submit its report to the Government within one hundred and seventy days from the date of detention.

(2) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(3) When there is a difference of opinion among the members of the Advisory Board, the opinion of the majority of such members shall be