



THE CRIMINAL LAW AMENDMENT (SPECIAL COURT) ACT, 1976



CONTENTS

SECTIONS.

1. Short title, extent and commencement.
2. Definations.
3. Certain offences triable by Special Court.
4. Special Courts.
5. Commencement of proceedings.
6. Powers and procedure of Special Court.
7. Place of sitting.
8. Proceedings to be open.
9. Restriction of adjournments.
10. Special rules of evidence.
11. Provision for counsel.
12. Jurisdiction, etc, of Special Court not to be questioned.
13. Act to override all other laws.
14. Repeal.

THE CRIMINAL LAW AMENDMENT (SPECIAL COURT) ACT, 1976.

¹ACT No. XVII OF 1976

An Act to provide for the trial by a Special Court of certain offences.

WHEREAS It is expedient to provide for the trial by a special Court of certain offences affecting the security, integrity or sovereignty of Pakistan or any part thereof, including offences of high treason, and for matters connected therewith;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Criminal Law Amendment (Special Court) Act, 1976.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

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

(a) "Code" means the Code of Criminal Procedure, 1898 (Act V of 1898) ;

(b) "Special Court" means ²[a] court set up under section 4.

3. Certain offences triable by Special Court.—(1) Any offence punishable under sections 121, 121 A, 122, 123 and 123 A of the Pakistan Penal Code (XLV of 1860) and any offence punishable under the High Treason (Punishment) Act, 1973 (LXVIII of 1973), including an offence of conspiracy to commit any such offence, whether committed before or after the commencement of this shall be tried by ³[a Special Court] in accordance with the provisions of this Act.

(2) No court other than the Special Court shall try an offence which is triable by the Special Court under sub-section (1).

(3) If, in the course of a trial before the Special Court, the Court is of opinion that an accused before it has committed or appears to have committed any offence other than an offence referred to in sub-section (1), the Special Court shall record such opinion and refer such accused for the trial of such other offence to a court having jurisdiction to try the offence.

4. Special Court.—(1) ⁴[For the trial of any of the offences specified in sub-section (1) of section 3, the Federal Government may, by notification in the official Gazette, set up one or more Special Courts] composed of three persons each of whom is a Judge of a High Court, and shall nominate one of the said persons to be the President of the Special Court.

⁵[(1 A) The setting up of a Special Court under sub-section (1) shall not be deemed to affect the jurisdiction of any other Special Court in respect of the trial of a case pending before such other Special Court immediately before the setting up of the Special Court.]

¹ For Statement of Objects and Reasons, see Gaz. of P., 1976, Ext Pt. II, pp. 349-350.

² Subs. by the Criminal Law Amendment (Special Court) (Amdt) Ordinance, 1977 (40 of 1977), s. 2, for "the" (w.e.f. 14-9-1977).

³ Subs. *ibid.*, s. 2, for "the Special Court".

⁴ Subs. *ibid.*, s. 4, for certain words (w.e.f. 14-9-1977).

⁵ New sub-section (1A) ins. *ibid.*

(2) If any member of the Special Court through death, illness or any other reason is unable to continue to perform his functions, the Federal Government may, by notification in the official Gazette, declare the office of such member to be vacant and appoint thereto another person qualified to hold the office.

(3) If, in the course of a trial, any member of the Special Court is, for any reason, unable to attend any sitting thereof the trial may continue before the other two members.

(4) The Special Court shall not merely by reason of any change in its membership or the absence of any of its members from any sitting be bound to recall and rehear any witness who has already given any evidence and may act on the evidence already given or produced before it.

(5) In the event of any difference of opinion among the members of the Special Court, the opinion of the majority shall prevail and the decision of the Special Court shall be expressed in terms of the views of the majority.

5. Commencement of proceedings.—(1) The Federal Government shall forward to the Special Court, on behalf of the prosecution, a complaint in the form of a statement of the case to be tried by the Court, together with a list of the accused persons, formal charges of offences alleged to have been committed by each one of them and a list of witnesses intended to be produced in support of each charge.

(2) For the purpose of taking cognizance of a case under his Act no other complaint would be necessary under any other law.

(3) The submission of a complaint or a list of ¹[accused persons or] witnesses or formal charges under sub-section (1) shall not preclude—

- (a) The Federal Government from submitting an amended or additional statement of the case or charge at any time before judgment is pronounced, or
- (b) The Federal Government or the prosecution from submitting additional names of ¹[accused persons or] witnesses at any subsequent stage of the prosecution evidence in the case.

6. Powers and procedure of Special Court.—(1) The Special Court shall have, in respect of a case liable by it, all the powers which a High Court has in relation to trial before it under the Code, but shall, notwithstanding anything contained in the Code, proceed with the trial in the following manner, namely:—

- ²[(a) as soon as the accused appear or are brought before the Special Court, the formal charges referred to in section 5 shall be read and explained to them, and each one of them shall be asked whether he is guilty;]
- (b) if the accused pleads guilty, the Special Court shall record the plea, and may in its discretion convict him thereon;
- (c) if the accused pleads not guilty or refuses to plead, or claims to be tried, the Special Court shall proceed to take all such evidence as may be produced in support of the prosecution;

¹ Ins. by the Criminal Law Amendment (Special Court) (Amdt.) Act, 1976 (41 of 1976), s. 2.

² Subs. by the Criminal Law Amendment (Special Court) (Amdt.) Act, 1976 (66 of 1976), s. 2, for the original clause (a).