

THE CRIMINAL LAW AMENDMENT ACT, 1958

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SCHEDULE

THE CRIMINAL LAW AMENDMENT ACT, 1958

ACT NO. XL OF 1958

[23rd September, 1958]

***An Act to repeal and re-enact, with certain amendments, the ¹[Criminal Law] Amendment Act, 1948.**

WHEREAS it is expedient to repeal and re-enact, with certain amendments, the ²[Criminal Law] Amendment Act, 1948, providing for the more speedy trial and more effective punishment of certain offences;

Preamble

It is hereby enacted as follows:-

1. (1) This Act may be called the ³[Criminal Law] Amendment Act, 1958.

Short title,
extent and
commencement

(2) It extends to the whole of Bangladesh and applies to all citizens of Bangladesh and public servants wherever they may be.

(3) It shall come into force at once.

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

Definitions

⁴[* * *]

* Throughout this Act, the words “Bangladesh” and “Government” were substituted for the words “Pakistan” and “Central Government” or “appropriate Government” respectively by section 2 of the Criminal Law Amendment (Amendment) Ordinance, 1978 (Ordinance No. VI of 1978).

¹ The words “Criminal Law” were substituted for the words “Pakistan Criminal Law” by section 2 of the Criminal Law Amendment (Amendment) Ordinance, 1978 (Ordinance No. VI of 1978).

² The words “Criminal Law” were substituted for the words “Pakistan Criminal Law” by section 2 of the Criminal Law Amendment (Amendment) Ordinance, 1978 (Ordinance No. VI of 1978).

³ The words “Criminal Law” were substituted for the words “Pakistan Criminal Law” by section 2 of the Criminal Law Amendment (Amendment) Ordinance, 1978 (Ordinance No. VI of 1978).

⁴ Clause (a) was omitted by section 3 of the Criminal Law Amendment (Amendment) Ordinance, 1978 (Ordinance No. VI of 1978).

¹[(aa) “Commission” means Anti-Corruption Commission established under দুর্নীতি দমন কমিশন আইন, ২০০৪ (২০০৪ সনের ৫নং আইন)]

²[(b) “public servant” means a public servant as defined in section 21 of the Penal Code (Act XLV of 1860), and includes a Chairman, Director, Trustee, Member, Commissioner, officer or other employee of any local authority, statutory corporation or body corporate or of any other body or organisation constituted or established under any law;]

³[(bb) “Schedule” means Schedule of this Act;]

(c) “Special Judge” means a Special Judge appointed under sub-section (1) of section 3.

Appointment of
Special Judges

3. (1) The Government shall, by notification in the *official Gazette*, appoint as many Special Judges as may be necessary to try and punish offences specified in the Schedule.

⁴[(2) No person shall be appointed a Special Judge unless he is or has been a Sessions Judge or an Additional Sessions Judge or an Assistant Sessions Judge ⁵[* * *].]

Jurisdiction of
Special Judges
and cognizance
of cases by
them

4. (1) A Special Judge shall have jurisdiction within such territorial limits as may be fixed by the Government by notification in the *official Gazette* and may take cognizance of any offence committed or deemed to have been committed within such limits and triable under this Act upon receiving a complaint of facts which constitute such offence or upon a report in writing of such facts made by any police officer.

¹ Clause (aa) was inserted by section 2 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).

² Clause (b) was substituted by section 3 of the Criminal Law Amendment (Amendment) Ordinance, 1978 (Ordinance No. VI of 1978).

³ Clause (bb) was inserted by section 2 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).

⁴ Sub-section (2) was substituted by section 2 of the Criminal Law Amendment (Amendment) Act, 1987 (Act No. XIII of 1987).

⁵ The words “or a Metropolitan Magistrate or a Magistrate of the first class” were omitted by section 3 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).

(2) Where two or more Special Judges have jurisdiction, wholly or partly in the same territorial limits, the Government shall, by notification in the *official Gazette*, declare one of them to be the Senior Special Judge for that area ¹[; and, notwithstanding anything contained in sub-section (1), such Senior Special Judge shall have exclusive jurisdiction to take cognizance of all offences triable under this Act committed or deemed to have been committed within that area.]

(3) An offence shall be tried by the Special Judge within the territorial limits of whose jurisdiction it was committed or deemed to have been committed, or where there are more Special Judges than one having jurisdiction within the same territorial limits, ²[by the Special Judge to whom the case is transferred] by the Senior Special Judge:

Provided that the Senior Special Judge may, by order in writing, transfer, at any stage of the trial, any case from the Court of one Special Judge to the Court of another Special Judge having jurisdiction within the same territorial limits.

(4) When an offence triable under this Act is committed outside Bangladesh, it shall, for the purposes of this Act, be deemed to have been committed within the territorial limits of the jurisdiction of the Special Judge in which the person ³[committing the offence is found or was ordinarily residing before he left Bangladesh].

¹ The semi-colon (;) was substituted for the full stop (.) and the words, commas, brackets, figure and full-stop “and, notwithstanding anything contained in sub-section (1), such Senior Special Judge shall have exclusive jurisdiction to take cognizance of all offences triable under this Act committed or deemed to have been committed within that area.” were inserted by section 3 of the Criminal Law Amendment (Amendment) Act, 1987 (Act No. XIII of 1987).

² The words “by the Special Judge to whom the case is transferred” were substituted for the words “by such one of them as may be specified in this behalf” by section 3 of the Criminal Law Amendment (Amendment) Act, 1987 (Act No. XIII of 1987).

³ The words “committing the offence is found or was ordinarily residing before he left Bangladesh” were substituted for the words “committing the offence is found” by section 5 of the Criminal Law Amendment (Amendment) Ordinance, 1978 (Ordinance No. VI of 1978).

¹[(5) A Special Judge may pass any sentence authorised by law, except-

- (a) a sentence of death or of imprisonment for life or of imprisonment for a term exceeding ten years, if he is or has been an Assistant Sessions Judge;

²[* * *]]

Offences
to be tried
by Special
Judges

5. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, or in any other law, the offences specified in the Schedule shall be triable exclusively by a Special Judge.

(2) [Omitted by section 5 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).]

(3) [Omitted by section 6 of the Criminal Law Amendment (Amendment) Ordinance, 1978 (Ordinance No. VI of 1978).]

(4) [Omitted by section 5 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).]

(5) In respect of cases transferred to a Special Judge under ³[* * *] ⁴[* * *] section 4 ⁵[* * *], such Judge shall not, by reason of the said transfer, be bound to recall and rehear any witness who has given evidence in the case before transfer and may act on the evidence already recorded by or produced before the court which tried the case before the transfer.

¹ Sub-section (5) was inserted by section 3 of the Criminal Law Amendment (Amendment) Act, 1987 (Act No. XIII of 1987).

² Clause (b) was omitted by section 4 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).

³ The words “the proviso to” were omitted by section 4 of the Criminal Law Amendment (Amendment) Act, 1987 (Act No. XIII of 1987).

⁴ The words “sub-section (3) of” were omitted by section 6 of the Criminal Law Amendment (Amendment) Ordinance, 1978 (Ordinance No. VI of 1978).

⁵ The words, figure and brackets “or by virtue of sub-section (4) of this section” were omitted by section 5 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).

(6) For the purpose of trial ¹[under this Act,] a Special Judge may, in any case where he deems it necessary, order an investigation by ²[the Commission].

(7) When trying an offence under this Act a Special Judge may also charge with and try other offences not so triable with which the accused may, under the provisions of the Code of Criminal Procedure, 1898, relating to the joinder of charges, be charged at the same trial.

³[5A. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), for the purpose of investigation of an offence triable under this Act, the offence shall be deemed to be an offence triable exclusively by Court of Sessions and the provisions of sub-section (5) of section 167 of that Code shall have effect as if for the words “sixty days” the words “one hundred and eighty days” were *substituted*.]

Time-limit for investigation

6. ⁴[(1) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), shall, in so far as they are not inconsistent with this Act, apply to the proceedings of the Court of a Special Judge and for the purposes of the said provisions, the Court of a Special Judge shall be deemed to be-

Procedure in trial of cases and powers of Special Judges

- (a) a Court of Sessions, if the Special Judge is or has been a Sessions Judge or an Additional Sessions Judge or an Assistant Sessions Judge.

⁵[* * *]]

¹ The words and comma “under this Act,” were substituted for the words, commas and figures “before a Special Judge, the provisions of Chapter XVIII of the Code of Criminal Procedure, 1898, shall not be applicable, but” by section 4 of the Criminal Law Amendment (Amendment) Act, 1987 (Act No. XIII of 1987).

² The words “the Commission” were substituted for the words “any police officer in whose jurisdiction the offence was wholly or partly committed” by section 5 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).

³ Section 5A was inserted by section 5 of the Criminal Law Amendment (Amendment) Act, 1987 (Act No. XIII of 1987).

⁴ Sub-section (1) was substituted by section 6 of the Criminal Law Amendment (Amendment) Act, 1987 (Act No. XIII of 1987).

⁵ Clause (b) was omitted by section 6 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).

¹[(1A) If a Special Judge has reason to believe that an accused person has absconded or is concealing himself so that he cannot be arrested and produced before him for trial, he may, by order notified in the *official Gazette*, direct such person to appear before him within such period as may be specified in the order, and if such person fails to comply with such direction, he may be tried in his absence.]

²[(1B) A person accused of more offences than one punishable under this Act may be tried at one trial for all such offences.]

³[(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), in the case of any offence specified in the Schedule, at any stage of investigation, enquiry, and trial the Special Judge, with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, may for reasons to be recorded in writing tender pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relative to the offence and to every other person concerned, whether as principal or abettor, in the commission thereof and any pardon so tendered shall, for the purposes of sections 339 and 339A of the said Code, be deemed to have been tendered under section 337, or, as the case may be, under section 338 of that Code.]

(3) The provisions of Chapter XX of the Code of Criminal Procedure, 1898, shall apply to trial of cases under this Act in so far as they are not inconsistent with the provisions of this Act.

(4) Notwithstanding anything contained in this Act, the Special Judge may convict the accused of any offence which from the facts admitted or proved he appears to have committed.

(5) [*Omitted by section 6 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).*]

¹ Sub-section (1A) was inserted by section 7 of the Criminal Law Amendment (Amendment) Ordinance, 1978 (Ordinance No. VI of 1978).

² Sub-section (1B) was inserted by section 2 of the Criminal Law Amendment (Amendment) Ordinance, 1979 (Ordinance No. XVI of 1979).

³ Sub-section (2) was substituted by section 6 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).

¹[* * *]

(6) [Omitted by section 6 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).]

(7) The previous statements of witnesses to be examined for the prosecution at the trial shall be supplied to the accused at least one week before the commencement of the trial.

7. (1) When any person is charged before a Special Judge with an offence triable under this Act, the fact that such person or any other person through him or on his behalf, is in possession, for which he cannot satisfactorily account, of pecuniary resources, or property disproportionate to his known sources of income, or that such person has, on or about the time of offence with which he is charged, obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, may be proved, and may be taken into consideration by the Special Judge as a relevant fact in deciding whether he is guilty of the particular offence with which he is charged.

Special rules of evidence

(2) Where in any trial before a Special Judge of an offence punishable under sections 161 to 165 of the ²[Penal Code], it is proved that an accused person has accepted or obtained, or has agreed to accept or attempted to obtain, for himself or for any other person, any gratification (other than legal remuneration) or any valuable thing, or any pecuniary advantage from a person or the agent of a person, for any favour shown or promised to be shown by the accused person, it shall be presumed, unless the contrary is proved, that he accepted or obtained, or agreed to accept or attempted to obtain, that gratification, or that valuable thing, or pecuniary advantage to himself or some other person, as the case may be, as a motive or reward such as is mentioned in sections 161, 162 and 163 of the ³[Penal Code], or, as the case may be, without consideration, or for a consideration which he knows to be inadequate.

¹ The Explanation was omitted by section 7 of the Criminal Law Amendment (Amendment) Ordinance, 1978 (Ordinance No. VI of 1978).

² The words "Penal Code" were substituted for the words "Pakistan Penal Code" by section 2 of the Criminal Law Amendment (Amendment) Ordinance, 1978 (Ordinance No. VI of 1978).

³ The words "Penal Code" were substituted for the words "Pakistan Penal Code" by section 2 of the Criminal Law Amendment (Amendment) Ordinance, 1978 (Ordinance No. VI of 1978).

(3) Where in any trial of an offence punishable under section 165A of the ¹[Penal Code], it is proved that any gratification (other than legal remuneration) or any valuable thing has been given or offered to be given or attempted to be given by an accused person, it shall be presumed unless the contrary is proved that he gave or offered to give or attempted to give the gratification or valuable thing, as the case may be, as a motive or reward such as is mentioned in section 161 of the said Code or, as the case may be, without consideration or for a consideration which he knew to be inadequate.

(4) Notwithstanding anything contained in sub-sections (2) and (3), the Court may decline to draw the presumption referred to in either of the said sub-sections, if the gratification or thing aforesaid is, in its opinion, so trivial that no inference of corruption may fairly be drawn.

Bar on trial *de novo*

8. A Special Judge, unless he otherwise decides, shall not be bound to recall or rehear any witness, whose evidence has already been recorded, or to re-open proceedings already held, but may act on the evidence already produced or recorded and continue the trial from the stage which the case has reached.

Punishment of offences

9. When any person charged before a Special Judge with an offence triable under this Act is found guilty of the offence the Special Judge shall, notwithstanding anything contained in any other law, whether or not he imposes a sentence of imprisonment, impose a sentence of fine which shall not be less than the gain found to have been derived by the accused by the ²[commission of the offence and may also order confiscation of the whole or any part of the property of the accused to the Government].

Appeal, revision and transfer of cases

10. ³[(1) An appeal from the judgement of a Special Judge shall lie to-

- (a) the High Court Division, if the Special Judge is or has been a Sessions Judge or an Additional Sessions Judge or an Assistant Sessions Judge;

¹ The words "Penal Code" were substituted for the words "Pakistan Penal Code" by section 2 of the Criminal Law Amendment (Amendment) Ordinance, 1978 (Ordinance No. VI of 1978).

² The words "commission of the offence and may also order confiscation of the whole or any part of the property of the accused to the Government" were substituted for the words "commission of the offence" by section 8 of the Criminal Law Amendment (Amendment) Ordinance, 1978 (Ordinance No. VI of 1978).

³ Sub-section (1) was substituted by section 7 of the Criminal Law Amendment (Amendment) Act, 1987 (Act No. XIII of 1987).

¹[* * *]

(1A) The Court to which an appeal lies under sub-section (1) shall also have powers of revisions.]

(2) Notwithstanding the provisions of section 417 of the Code of Criminal Procedure, 1898, in any case tried by a Special Judge appointed by the Government under section 3, in which such Special Judge has passed an order of acquittal, ²[the Commission may] direct the Public Prosecutor to present an appeal to such Court as aforesaid.

(3) The ³[High Court Division] shall have authority to transfer any case from the Court of a Special Judge to the Court of another Special Judge:

Provided that notwithstanding anything contained in section 526 of the Code of Criminal Procedure, 1898, the Special Judge from whose Court a transfer is desired, shall not be bound to adjourn the case, but if he rejects a request for adjournment, he shall record his reasons for doing so.

(4) No prosecution under this Act against any person either generally or in respect of any one or more of the offences for which he is being tried shall be withdrawn except under the orders in writing of the ⁴[Commission].

11. (1) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure, 1898, or any other law for the time being in force, offences triable by a Special Judge under this Act shall be deemed to be non-bailable.

Bail and
imprisonment

(2) Any offence triable under this Act which is punishable with simple imprisonment shall be deemed to be punishable with imprisonment of either description.

¹ Clause (b) was omitted by section 7 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).

² The words “the Commission may” were substituted for the words “the Government may” by section 7 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).

³ The words “High Court Division” were substituted for the words “aforesaid court” by section 7 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).

⁴ The word “Commission” was substituted for the word “Government” by section 7 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).

Power to make rules **12.** (1) The Government may frame rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for any of the following matters, namely:-

¹[* * *]

- (b) the emoluments of the Special Judges, and their appointment;
- (c) territorial limits of the jurisdiction of Special Judges and the place and time of sitting of the Courts presided over by the Special Judges;
- (d) the summoning of witnesses and compelling the production of documents and the penalty for disobeying, or evading the same, in addition to or substitution of the provisions of the Code of Criminal Procedure, 1898;
- (e) matters incidental to the above.

Military, naval and air force law not to be affected

13. Nothing in this Act shall affect the jurisdiction exercised by, or the procedure applicable to, any Court or other authority under any military, naval, or air force law.

14. [*Repeal and savings.- Omitted by section 9 of the Criminal Law Amendment (Amendment) Ordinance, 1978 (Ordinance No. VI of 1978).*]

²[**SCHEDULE**

(See section 5)

- (a) Offences Punishable under দুর্নীতি দমন কমিশন আইন, ২০০৪ (২০০৪ সনের দেনং আইন);
- (b) Offences Punishable under the Prevention of Corruption Act, 1947 (Act No. II of 1947);
- (c) Offences Punishable under sections 161-169, 217, 218, 408, 409 and 477A of the Penal Code (Act No. XLV of 1860);
- (d) Abetment described in section 109 including other abetments, conspiracies described in 120B, and attempts described in section 511, of the Penal Code, 1860 (Act No. XLV of 1860) related to or connected with the offences mentioned in clause (a) to (c) above.]

¹ Clause (a) was omitted by section 8 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).

² “Schedule” was substituted by section 9 of the Criminal Law Amendment (Amendment) Act, 2004 (Act No. XXII of 2004).