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THE SCHEDULE

THE SPECIAL POWERS ACT, 1974

ACT NO. XIV OF 1974

[9th February, 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;

¹[* * *]

¹ Clause (d) was omitted by section 2 of the Special Powers (Amendment) Act, 1991 (Act No. XVIII of 1991).

- (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;
- ¹[* * *]
- (h) "prescribed" means prescribed by rules made under this Act.

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-

Power to make orders detaining or removing certain persons

- (a) directing that such person be detained;

¹ Clause (g) was omitted by section 2 of the Special Powers (Amendment) Act, 1991 (Act No. XVIII of 1991).

- (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.

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

Detention orders not to be invalid or inoperative on certain grounds

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-

Powers in relation to absconding persons

- (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.

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

Communication of grounds of order

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 ¹[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 ²[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

¹ The words "High Court" were substituted for the words "Supreme Court" by section 2 of the Special Powers (Amendment) Ordinance, 1976 (Ordinance No. LXXIX of 1976).

² The words "High Court" were substituted for the words "Supreme Court" by section 2 of the Special Powers (Amendment) Ordinance, 1976 (Ordinance No. LXXIX of 1976).

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 deemed to be the opinion of the Board.

(4) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board, and the proceedings of the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

12. (1) In any case where the Advisory Board has reported that there is, in its opinion, sufficient cause for the detention of a person, the Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit:

Action upon the report of Advisory Board

Provided that the Advisory Board shall, after affording the person concerned an opportunity of being heard in person, review such detention order, unless revoked earlier, once in every six months from the date of such detention order and the Government shall inform the person concerned of the result of such review.

(2) In any case where the Advisory Board has reported that there is, in its opinion, no sufficient cause for the detention of the person concerned, the Government shall revoke the detention order and cause the person to be released forthwith.

13. A detention order may, at any time, be revoked or modified by the Government.

Revocation of detention orders

14. (1) The Government may, at any time, direct that any person detained in pursuance of a detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts, and may, at any time, cancel his release.

Temporary release of persons detained

(2) In directing the release of any person under sub-section (1), the Government may require him to enter into a bond, with or without sureties, for the due observance of the conditions specified in the direction.

(3) Any person released under sub-section (1) shall surrender himself at the time and place, and to the authority, specified in the order directing his release or cancelling his release, as the case may be.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3), he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.

(5) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to pay the penalty thereof.

Sabotage

15. (1) No person shall do any act with intent to impair the efficiency or impede the working of, or to cause damage to,-

- (a) any building, vehicle, machinery, apparatus or other property used, or intended to be used, for the purposes of the Government or of any local authority or nationalised commercial or industrial undertaking ;
- (b) any railway, aerial ropeway, road, canal, bridge, culvert, causeway, port, dockyard, light-house, aerodrome, telegraph or telephone line or post, or television or wireless installation;
- (c) any rolling-stock of any railway or any vessel or aircraft;
- (d) any building or other property used in connection with the production, distribution or supply of any essential commodity, any sewage works, mine or factory ; ¹[* * *]

¹ The word “or” was omitted by section 2 of the Special Powers (Amendment) Act, 1974 (Act No. LIX of 1974).

(e) any place or area prohibited or protected under this Act or any other law for the time being in force ¹[; or]

²[(f) any jute, jute product, jute godown, jute mill or jute bailing press.]

(2) The provisions of sub-section (1) shall apply in relation to any omission on the part of any person to do anything which he is under a duty, either to Government or to any public authority or to any person, to do, as they apply to the doing of any act by a person.

³[(3) If any person contravenes any of the provisions of this section, he shall be punishable with death, or with ⁴[imprisonment for life], or with rigorous imprisonment for a term which may extend to fourteen years, and shall also be liable to fine.]

16. [*Prohibition of prejudicial acts, etc.- Omitted by section 3 of the Special Powers (Amendment) Act, 1991 (Act No. XVIII of 1991).*]

17. [*Proscription, etc., of certain documents.- Omitted by section 3 of the Special Powers (Amendment) Act, 1991 (Act No. XVIII of 1991).*]

18. [*Regulation of publication of certain matters.- Omitted by section 3 of the Special Powers (Amendment) Act, 1991 (Act No. XVIII of 1991).*]

19. (1) Notwithstanding anything contained in any other law for the time being in force, where the Government is satisfied with respect to any association that there is danger that the association may act in a manner or be used for purposes prejudicial to the maintenance of public order it may, after

Control of
subversive
associations

¹ The semi-colon and word “; or” were substituted for the full-stop (.) by section 2 of the Special Powers (Amendment) Act, 1974 (Act No. LIX of 1974).

² Clause (f) was inserted by section 2 of the Special Powers (Amendment) Act, 1974 (Act No. LIX of 1974).

³ Sub-section (3) was substituted by section 2 of the Special Powers (Amendment) Act, 1974 (Act No. LIX of 1974).

⁴ The words “imprisonment for life” were substituted for the words “transportation for life” by section 2 of the Special Powers (Amendment) Act, 1987 (Act No. XVII of 1987).

hearing the person or persons concerned, by order notified in the *official Gazette*, direct the association to suspend its activities for such period not exceeding six months as may be specified in the order.

(2) Where an order under sub-section (1) is in force in respect of an association, any officer authorised by the Government in this behalf may enter upon and search any premises used for the purposes of the association and take possession of any document belonging to or in the custody of the association which, in his opinion, may be used for purposes prejudicial to the maintenance of public order.

(3) Where an order has been made in respect of an association under sub-section (1), the Government may, by order notified in the *official Gazette*, direct that no funds or other property of the association shall be used, transferred or otherwise disposed of, or in any way dealt with, so long as the order under sub-section (1) remains in force.

(4) Where an order under sub-section (3) has been made in respect of an association, all claims of the employees or creditors of the association, or any other person, on the association or on the funds or property thereof, shall remain suspended, and the commencement or continuance of all actions and proceedings relating to such claim shall be stayed, for so long as the order remains in force.

(5) For the purposes of any suit, appeal or application by or against an association in respect of which an order under sub-section (3) has been made, the period during which the order remains in force shall, notwithstanding anything contained in the Limitation Act, 1908 (IX of 1908), be excluded in computing the period of limitation.

(6) No person shall so long as an order under sub-section (1) in respect of any association remains in force-

- (a) manage or assist in managing the association ;
- (b) promote or assist in promoting a meeting of any members of the association, or attend any such meeting in any capacity ;
- (c) publish any notice or advertisement relating to any such meeting ;

- (d) invite persons to support the association ; or
- (e) otherwise in any way assist the operation of the association.

(7) A copy of an order under this section shall be served on the president, chairman, secretary or other officer or person concerned with the management of the affairs of the association by whatever name called, or by leaving it or sending it by post to the association at the last known address of its principal office.

(8) If any person contravenes an order made under this section, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(9) In this section, “association” includes a union or political party.

20. (1) No person shall form, or be a member or otherwise take part in the activities of, any communal or other association or union which in the name or on the basis of any religion has for its object, or pursues, a political purpose.

Prohibition of formation of certain associations or unions

(2) Where the Government is satisfied that an association or union has been formed or is operating in contravention of the provisions of sub-section (1), it may, after hearing the person or persons concerned, declare, by notification in the *official Gazette*, that the association or union has been formed or is operating in contravention of the provisions of sub-section (1), and upon such declaration, the association or union concerned shall stand dissolved and all its properties and funds shall be forfeited to Government.

(3) Any person who, after the dissolution of an association or union under sub-section (2), holds himself out as a member or office-bearer of that association or union, or acts for, or otherwise takes part in the activities of, that association or union, shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

21. (1) If as respects any place or class of places the Government considers it necessary in the public interest that special precautions should be taken to prevent the entry of

Protected places

unauthorised persons, it may, by order, declare that place or, as the case may be, every place of that class to be a protected place; and thereupon, for so long as the order remains in force, such place or every place of such class, as the case may be, shall be a protected place for the purposes of this Act.

(2) No person shall, without the permission of the Government, enter, or be on or in, or pass over, any protected place.

(3) Where in pursuance of sub-section (2) any person is granted permission to enter, or to be on or in, or to pass over, a protected place, the person shall, while acting under such permission, comply with such orders for regulating his conduct as may be given by the Government.

Protected areas

22. (1) If the Government considers it necessary in the public interest to regulate the entry of persons into any area, it may, without prejudice to any other provision of this Act, by order declare the area to be a protected area; and thereupon, for so long as the order is in force, such area shall be a protected area for the purposes of this Act.

(2) On and after such day as may be specified in, and subject to any exemptions for which provisions may be made by, an order made under sub-section (1), no person, who was not at the beginning of the said day resident in the area declared to be a protected area by the said order, shall be therein except in accordance with the terms of a permit granted to him by an authority or person specified in the said order.

Enforcement of the provisions of sections 21 and 22

23. (1) Any police officer, or any other person authorised in this behalf by the Government, may search any person entering or seeking to enter, or being on or in, or leaving, a protected place or protected area, and any vehicle, vessel, animal or article brought in by such person, and may, for the purpose of the search, detain such person, vehicle, vessel, animal or article:

Provided that no woman shall be searched in pursuance of this sub-section except by a woman.

(2) If any person is in a protected place or protected area in contravention of the provisions of section 21 or, as the case may

be, 22, then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by or under the direction of any police officer or by any other person authorised in this behalf by the Government.

(3) If any person is in a protected place or protected area in contravention of any of the provisions of section 21 or, as the case may be, 22, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

24. (1) The District Magistrate ¹[or the Police Commissioner in ²[a Metropolitan Area]] may, subject to the control of the Government, by order direct that, subject to any exemption specified in the order, no person present within any area or areas specified in the order shall, between such hours as may be specified in the order, be out of doors except under the authority of a written permit granted by a specified authority or person. Curfew

(2) If any person contravenes any order made under this section, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

25. ³[(1) Whoever is found guilty of the offence of hoarding or dealing in the black-market shall be punishable with death, or with ⁴[imprisonment for life], or with rigorous imprisonment for a term which may extend to fourteen years, and shall also be liable to fine: Penalty for hoarding or dealing in black-market

Provided that if, in the case of an offence of hoarding, the person accused of such offence proves that he was hoarding for

¹ The words “or the Police Commissioner in the Dacca Metropolitan Area” were inserted by section 12 and the Schedule of the Dacca Metropolitan Police (Amendment) Ordinance, 1976 (Ordinance No. LXIX of 1976).

² The words “a Metropolitan Area” were substituted for the words “the Dacca Metropolitan Area” by Section 114 and the Schedule III of the Chittagong Metropolitan Police Ordinance, 1978 (Ordinance No. XLVIII of 1978).

³ Sub-section (1) was substituted by section 3 of the Special Powers (Amendment) Act, 1974 (Act No. LIX of 1974).

⁴ The words “imprisonment for life” were substituted for the words “transportation for life” by section 3 of the Special Powers (Amendment) Act, 1987 (Act No. XVII of 1987).

purposes other than gain, whether financial or otherwise, he shall be punishable with imprisonment for a term which may extend to three months, and shall also be liable to fine.]

(2) A court convicting an offence of hoarding or dealing in the black-market shall order the forfeiture to Government of anything in respect of which the offence was committed.

(3) [Omitted by section 3 of the Special Powers (Amendment) Act, 1987 (Act No. XVII of 1987).]

Penalty for counterfeiting currency-notes and Government stamps

¹[25A. Whoever-

- (a) counterfeits, or knowingly performs any part of the process of counterfeiting any currency-note or Government stamp; or
- (b) sells to, or buys or receives from, any person, or otherwise traffics in or uses as genuine, any counterfeit currency-note or Government stamp, knowing or having reason to believe the same to be counterfeit; or
- (c) makes, or performs any part of the process of making, or buys or sells or disposes of, or has in his possession, any machinery, instrument or material for the purposes of being used, or knowing or having reason to believe that it is intended to be used, for counterfeiting any currency-note or Government stamp,

shall be punishable with death, or with ²[imprisonment for life], or with rigorous imprisonment for a term which may extend to fourteen years, and shall also be liable to fine.

Explanation. In this section,-

- (a) “counterfeit” has the meaning assigned to it in the Penal Code (XLV of 1860); and
- (b) “Government stamp” means any stamp issued by the Government for the purpose of revenue.

¹ Sections 25A, 25B, 25C and 25D were inserted by section 4 of the Special Powers (Amendment) Act, 1974 (Act No. LIX of 1974).

² The words “imprisonment for life” were substituted for the words “transportation for life” by section 4 of the Special Powers (Amendment) Act, 1987 (Act No. XVII of 1987).

25B. ¹[(1)] Whoever, in breach of any prohibition or restriction imposed by or under any law for the time being in force, or evading payment of customs duties or taxes leviable thereon under any law for the time being in force, Penalty for smuggling

(a) takes out of Bangladesh jute, gold or silver bullion, manufactures of gold or silver, currency, articles of food, drugs, imported goods, or any other goods; or

(b) brings into Bangladesh any goods,

shall be punishable with death, or with ²[imprisonment for life, or with rigorous imprisonment for a term which may extend to fourteen years and shall not be less than two years], and shall also be liable to fine.

³[(2) Whoever sells, or offers or displays for sale, or keeps in his possession or under his control for the purpose of sale, any goods the bringing of which into Bangladesh is prohibited by or under any law for the time being in force shall be punishable with imprisonment for a term which may extend to seven years and shall not be less than one year, and shall also be liable to fine.

Explanation.- For the purposes of this sub-section, if any such goods are found in any premises used for any purpose other than for residential purpose, it shall be presumed that such goods have been kept in the possession of the owner or occupier or, where the premises have been let out, the occupier, of such premises for the purpose of sale and the burden shall lie on such owner or occupier to prove that he did not keep such goods in such premises or that such goods were not kept for the purpose of sale or that such goods were brought into Bangladesh at the time when the bringing of such goods were not prohibited by or under any law.]

¹ Existing provision of section 25B was numbered as sub-section (1) of that section by section 5 of the Special Powers (Amendment) Act, 1987 (Act No. XVII of 1987).

² The words and comma “imprisonment for life, or with rigorous imprisonment for a term which may extend to fourteen years and shall not be less than two years” were substituted for the words and comma “transportation for life, or with rigorous imprisonment for a term which may extend to fourteen years” by section 5 of the Special Powers (Amendment) Act, 1987 (Act No. XVII of 1987).

³ Sub-section (2) was added by section 5 of the Special Powers (Amendment) Act, 1987 (Act No. XVII of 1987).

Penalty for
adulteration of,
or sale of
adulterated
food, drink,
drugs or
cosmetics

25C. (1) Whoever-

- (a) adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink; or
- (b) sells, or offers or exposes for sale, as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink, knowing or having reason to believe that the same is noxious as food or drink; or
- (c) adulterates any drug or medical preparation in such a manner as to lessen the efficacy or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any medical purpose, as if it had not undergone such adulteration; or
- (d) knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation, or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medical purposes as unadulterated, or causes it to be used for medical purposes by any person not knowing of the adulteration; or
- (e) knowingly sells, or offers or exposes for sale, or issues from a dispensary for medical purposes, any drug or medical preparation, as a different drug or medical preparation,

shall be punishable with death, or with ¹[imprisonment for life], or with rigorous imprisonment for a term which may extend to fourteen years, and shall also be liable to fine.

(2) Whoever-

- (a) adulterates any hair oil, toilet soap or other cosmetic in such a manner as to make it harmful to hair, skin,

¹ The words “imprisonment for life” were substituted for the words “transportation for life” by section 6 of the Special Powers (Amendment) Act, 1987 (Act No. XVII of 1987).

complexion or any part of the body, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for, any cosmetic purpose; or

- (b) knowing any hair oil, toilet soap or other cosmetic to have been adulterated in such a manner as to make it harmful to hair, skin, complexion or any part of the body, sells the same, or offers or exposes it for sale, as adulterated,

shall be punishable with rigorous imprisonment for a term which may extend to five years, and shall also be liable to fine.

25D. Whoever attempts or conspires or makes preparation to commit or abets any offence punishable under this Act shall be punishable with the punishment provided for the offence.]

Penalty for attempt, etc.

¹[**25E.** Where an offence under section 25, 25A, 25B, 25C or 25D is committed by a firm, company or other body corporate, every partner, director, manager, secretary or other officer or agent thereof shall, if actively concerned in the conduct of the business of such firm, company or body corporate, be deemed to have committed the offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.]

Offences by companies

26. (1) Notwithstanding anything contained in the Code or in any other law for the time being in force, the offences specified in the Schedule to this Act shall be triable exclusively by a Special Tribunal constituted under sub-section (2).

Offences under this Act and certain other offences to be tried by Special Tribunals

(2) Every Sessions Judge, Additional Sessions Judge and Assistant Sessions Judge shall, for the areas within his sessions division, be a Special Tribunal for the trial of offences triable under this Act ²[:

Provided that the Government may, for the purpose of trial of offences mentioned in paragraphs 3 and 4 of the Schedule to this Act, constitute one or more additional Special Tribunals for such areas as may be specified by the Government and an

¹ Section 25E was inserted by section 7 of the Special Powers (Amendment) Act, 1987 (Act No. XVII of 1987).

² The colon (:) was substituted for the full-stop (.) and thereafter the proviso was added by section 2 of the Special Powers (Amendment) Act, 1980 (Act No. VIII of 1980).

additional Special Tribunal so constituted shall consist of one member, to be appointed by the Government, who shall be a person who is a Metropolitan Magistrate or a Magistrate of the first class.]

(3) A Special Tribunal consisting of the Sessions Judge may transfer, at any stage of the trial, any case from one Special Tribunal to another Special Tribunal within his sessions division.

Procedure of
Special
Tribunals

27. (1) Notwithstanding anything contained in the Code or in any other law for the time being in force, a Special Tribunal may take cognizance of an offence triable under this Act without the accused being committed to it for trial, but shall not take cognizance of any such offence except on a report in writing made by a police officer not below the rank of Sub-Inspector.

(2) Proceedings in respect of an offence triable under this Act alleged to have been committed by any person may be taken before ¹[any Special Tribunal] having jurisdiction in the place where that person is for the time being or where the offence or any part thereof was committed.

(3) A Special Tribunal may sit at such times and places as it deems fit or as the Government may direct.

(4) A Special Tribunal trying an offence under this Act shall try such offence summarily and in trying such offence such Special Tribunal shall follow the procedure laid down in the Code for summary trial of summons cases.

(5) A Special Tribunal shall not adjourn any trial for any purpose unless such adjournment is, in its opinion, necessary in the interest of justice.

²[(6) Where a Special Tribunal has reason to believe that an accused person has absconded or is concealing himself so that he cannot be arrested and produced before it for trial and there is no immediate prospect of arresting him, it shall, by order

¹ The words “any Special Tribunal” were substituted for the words “the Special Tribunal” by section 3 of the Special Powers (Amendment) Act, 1980 (Act No. VIII of 1980).

² Sub-sections (6) and (6A) were substituted for former sub-section (6) by section 4 of the Special Powers (Amendment) Act, 1991 (Act No. XVIII of 1991).

published in at least two Bengali daily newspapers having wide circulation, direct such person to appear before it within such period as may be specified in the order, and if such person fails to comply with such direction, he shall be tried in his absence.

(6A) Where in a case after the production or appearance of an accused person before the Tribunal or his release on bail, the accused person absconds or fails to appear before it, the procedure as laid down in sub-section (6) shall not apply and the Tribunal shall, after recording its decision so to do, try such person in his absence.]

¹[(7) A Special Tribunal may, on application or of its own motion, direct a police officer to make further investigation in any case relating to an offence triable under this Act and report within such time as may be specified by it.]

²[28. Notwithstanding anything contained in the Code or in any other law for the time being in force,-

Powers of
Special
Tribunals

- (a) a Special Tribunal consisting of a Sessions Judge, an Additional Sessions Judge or an Assistant Sessions Judge may pass upon any person convicted by it any sentence authorised by law for the punishment of the offence of which such person is convicted;
- (b) a Special Tribunal consisting of a Metropolitan Magistrate or a Magistrate of the first class may pass upon any person convicted by it any sentence authorised by law for the punishment of the offence of which such person is convicted except death, ³[imprisonment for life] or imprisonment for a term exceeding seven years and fine exceeding ten thousand taka.]

29. The provisions of the Code, so far only as they are not inconsistent with the provisions of this Act, shall apply to the proceedings of Special Tribunals, and such Special Tribunals shall have all the powers conferred by the Code on a Court of

Application of the
Code to
proceedings of
Special Tribunals

¹ Sub-section (7) was added by section 2 of the Special Powers (Second Amendment) Act, 1974 (Act No. LXXIII of 1974).

² Section 28 was substituted by section 4 of the Special Powers (Amendment) Act, 1980 (Act No. VIII of 1980).

³ The words “imprisonment for life” were substituted for the word “transportation” by section 8 of the Special Powers (Amendment) Act, 1987 (Act No. XVII of 1987).

Session exercising original jurisdiction, and a person conducting prosecution before such Special Tribunals shall be deemed to be a public prosecutor.

Appeals and confirmation of death sentences

¹[²**30.** (1) An appeal from any order, judgment or sentence of a Special Tribunal may be preferred to the High Court Division within thirty days from the date of delivery or passing thereof.

(2) Where a Special Tribunal passes a sentence of death, the proceedings shall be submitted forthwith to the High Court Division and the sentence shall not be executed unless it is confirmed by that Division.]

Power of Government to remit, suspend or commute any sentence

30A. Without prejudice to the provisions of Chapter XXIX of the Code, the Government may at any time remit, suspend or commute any sentence passed by Special Tribunal under this Act.]

Bar on trial *de-novo*

31. A Special Tribunal, unless it otherwise decides, shall not be bound to recall or re-hear 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.

Offences to be cognizable and non-bailable

32. Notwithstanding anything contained in the Code or in any other law for the time being in force,-

(a) all offences triable under this Act shall be cognizable ;
³[and]

⁴[* * *]

¹ Sections 30 and 30A were substituted for former section 30 by section 5 of the Special Powers (Amendment) Act, 1974 (Act No. LIX of 1974).

² Section 30 was substituted by section 2 of the Special Powers (Amendment) Ordinance, 1985 (Ordinance No. XXXIII of 1985).

³ The word “and” was added by section 4 of the Special Powers (Amendment) Ordinance, 1977 (Ordinance No. XL of 1977).

⁴ Clause (b) was omitted by section 4 of the Special Powers (Amendment) Ordinance, 1977 (Ordinance No. XL of 1977).

- (c) no person accused or convicted of ¹[an] offence triable under this Act shall, if in custody, be released on bail or on his own bond unless-
- (i) the prosecution has had opportunity of being heard in respect of the application for such release; and
 - (ii) where the prosecution opposes the application, the Magistrate, Special Tribunal or Court is satisfied that there are reasonable grounds for believing that the accused is not guilty of the offence.

33. A police officer making an arrest in connection with an offence triable under this Act shall, immediately after producing the person arrested before the nearest Magistrate, send a copy to the Government of the report submitted by him to the Magistrate relating to such arrest through such officer as the Government may, by general or special order, direct.

Report by
police officer to
Government

34. Except as provided in this Act, no order made, direction issued, or proceeding taken under this Act, or purporting to have been so made, issued or taken, as the case may be, shall be called in question in any Court, and no suit, prosecution or other legal proceeding shall lie against the Government or any person for anything in good faith done or intended to be done under this Act.

Bar on
jurisdiction of
Courts

²[**34A.** When a person is sentenced to death under this Act, the sentence may be executed by hanging him by the neck till he is dead or by shooting him in the prescribed manner till he is dead as the Special Tribunal may direct.

Execution of
death sentences

34B. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Code or in any other law for the time being in force.]

Act to over-ride
all other laws

35. The Government may make rules for carrying out the purposes of this Act.

Power to make
rules

¹ The word “an” was substituted for the words “any other” by section 4 of the Special Powers (Amendment) Ordinance, 1977 (Ordinance No. XL of 1977).

² Sections 34A and 34B were inserted by section 7 of the Special Powers (Amendment) Act, 1974 (Act No. LIX of 1974).

Repeals and savings

36. (1) The Security Act, 1952 (XXXV of 1952), the Public Safety Ordinance, 1958 (E. P. Ord. LXXVIII of 1958), and the Bangladesh Scheduled Offences (Special Tribunal) Order, 1972 (P. O. No. 50 of 1972), are hereby repealed.

(2) Notwithstanding such repeal,-

- (a) any order or rule made or anything done or any action taken or any proceeding commenced under any provision of the Security Act, 1952 (XXXV of 1952), or the Public Safety Ordinance, 1958 (E. P. Ord. LXXVIII of 1958), shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made, done, taken or commenced under the corresponding provisions of this Act ;
- (b) all cases pending before any Special Magistrate or Special Tribunal appointed or constituted or deemed to be appointed or constituted under the Bangladesh Scheduled Offences (Special Tribunal) Order, 1972 (P. O. No. 50 of 1972), immediately before the commencement of this Act shall be tried and disposed of by such Special Magistrate or Special Tribunal, and all matters in connection with such cases shall be regulated in accordance with the provisions of the said Order, as if the said Order had not been repealed by this Act.

THE SCHEDULE

(See section 26)

1. Offences punishable under this Act.

¹[* * *]

3. Offences punishable under the Arms Act, 1878 (XI of 1878).

4. Offences punishable under the Explosive Substances Act, 1908 (VI of 1908).

¹ Paragraph 2 was omitted by section 5 of the Special Powers (Amendment) Ordinance, 1977 (Ordinance No. XL of 1977).

¹[4A. Offences punishable under any rules made under the Emergency Powers Act, 1975 (I of 1975) or any order made under any such rule.]

²[* * *]

³[* * *]

⁴[5A. Offence punishable under ফরমালিন নিয়ন্ত্রণ আইন, ২০১৫ (Formalin Control Act, 2015).]

6. Any attempt or conspiracy to commit, or any abetment of, or any preparation for commission of, any of the above offences.

¹ Paragraph 4A was inserted by section 7 of the Emergency Powers Act, 1975 (Act No. I of 1975).

² Paragraphs 4B and 4C were omitted by section 28 of নারী ও শিশু নির্যাতন (বিশেষ বিধান) আইন, ১৯৯৫ (১৯৯৫ সনের ১৮ নং আইন)।

³ Paragraph 5 was omitted by section 5 of the Special Powers (Amendment) Ordinance, 1977 (Ordinance No. XL of 1977).

⁴ Paragraph 5A was inserted by section 38 of the ফরমালিন নিয়ন্ত্রণ আইন, ২০১৫ (Act No. V of 2015).