# The National Investigation Agency Act, 2008

Act 34 of 2008. 26 sections. Bare Act with the official footnotes.

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[31st December, 2008.]

An Act to constitute an investigation agency at the national level to investigate and prosecute offences affecting the sovereignty, security and integrity of India, security of State, friendly relations with foreign States and offences under Acts enacted to implement international treaties, agreements, conventions and resolutions of the United Nations, its agencies and other international organisations and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:-

## CHAPTER I PRELIMINARY

### Section 1. Short title, extent and application

(1) This Act may be called the National Investigation Agency Act, 2008.

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

(a) to citizens of India outside India;

(b) to persons in the service of the Government wherever they may be; [1]***

(c) to persons on ships and aircrafts registered in India wherever they may be [2][and].

[2][(d) to persons who commit a Scheduled Offence beyond India against the Indian citizens or affecting the interest of India.]

[1] The word "and" omitted by Act 16 of 2019, s. 2 (w.e.f. 2-8-2019).
[2] Ins. by s. 2, ibid. (w.e.f. 2-8-2019).

### Section 2. Definitions

(1) In this Act, unless the context otherwise requires,-

(a) "Agency" means the National Investigation Agency constituted under section 3;

(b) "Code" means the Code of Criminal Procedure 1973 (2 of 1974);

(c) "High Court" means the High Court within whose jurisdiction the Special Court is situated;

(d) "prescribed" means prescribed by rules;

(e) "Public Prosecutor" means a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor appointed under section 15;

(f) "Schedule" means the Schedule to this Act;

(g) "Scheduled Offence" means an offence specified in the Schedule;

(h) "Special Court" means [1][a Court of Session designated as Special Court] under section 11 or, as the case may be, under section 22;

(i) words and expressions used but not defined in this Act and defined in the Code shall have the meanings

respectively assigned to them in the Code.

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

[1] Subs. by s. 3, ibid., for "a Special Court Constituted" (w.e.f. 2-8-2019).

## CHAPTER II NATIONAL INVESTIGATION AGENCY

### Section 3. Constitution of National Investigation Agency

(1) Notwithstanding anything in the Police Act, 1861 (5 of 1861), the Central Government may constitute a special agency to be called the National Investigation Agency for investigation and prosecution of offences under the Acts specified in the Schedule.

(2) Subject to any orders which the Central Government may make in this behalf, officers of the Agency shall have throughout India [1][and, subject to any international treaty or domestic law of the concerned country, outside India] in relation to the investigation of Scheduled Offences and arrest of persons concerned in such offences, all the powers, duties, privileges and liabilities which police officers have in connection with the investigation of offences committed therein.

(3) Any officer of the Agency of, or above, the rank of Sub-Inspector may, subject to any orders which the Central Government may make in this behalf, exercise throughout India, any of the powers of the officer-in-charge of a police station in the area in which he is present for the time being and when so exercising such powers shall, subject to any such orders as aforesaid, be deemed to be an officer-in-charge of a police station discharging the functions of such an officer within the limits of his station.

[1] Ins. by Act 16 of 2019, s. 4 (w.e.f. 2-8-2019).

### Section 4. Superintendence of National Investigation Agency

(1) The superintendence of the Agency shall vest in the Central Government.

(2) The administration of the Agency shall vest in an officer designated as the Director-General appointed in this behalf by the Central Government who shall exercise in respect of the Agency such of the powers exercisable by a Director-General of Police in respect of the police force in a State, as the Central Government may specify in this behalf.

### Section 5. Manner of constitution of Agency and conditions of service of members

Subject to the provisions of this Act, the Agency shall be constituted in such manner as may be prescribed and the conditions of service of persons employed in the Agency shall be such as may be prescribed.

## CHAPTER III INVESTIGATION BY THE NATIONAL INVESTIGATION AGENCY

### Section 6. Investigation of Scheduled Offences

(1) On receipt of information and recording thereof under section 154 of the Code relating to any Scheduled Offence the officer-in-charge of the police station shall forward the report to the State Government forthwith.

(2) On receipt of the report under sub-section (1), the State Government shall forward the report to the Central Government as expeditiously as possible.

(3) On receipt of report from the State Government, the Central Government shall determine on the basis of information made available by the State Government or received from other sources, within fifteen days from the date of receipt of the report, whether the offence is a Scheduled Offence or not and also whether, having regard to the gravity of the offence and other relevant factors, it is a fit case to be investigated by the Agency.

(4) Where the Central Government is of the opinion that the offence is a Scheduled Offence and it is a fit case to be investigated by the Agency, it shall direct the Agency to investigate the said offence.

(5) Notwithstanding anything contained in this section, if the Central Government is of the opinion that a Scheduled Offence has been committed which is required to be investigated under this Act, it may, suo motu, direct the Agency to investigate the said offence.

(6) Where any direction has been given under sub-section (4) or sub-section (5), the State Government and any police officer of the State Government investigating the offence shall not proceed with the investigation and shall forthwith transmit the relevant documents and records to the Agency.

(7) For the removal of doubts, it is hereby declared that till the Agency takes up the investigation of the case, it shall

be the duty of the officer-in-charge of the police station to continue the investigation.

[1][(8) Where the Central Government is of the opinion that a Scheduled Offence has been committed at any place outside India to which this act extends, it may direct the Agency to register the case and take up investigation as if such offence has been committed in India.

(9) For the purposes of sub-section (8), the Special Court at New Delhi shall have the jurisdiction.]

[1] Ins. by Act 16 of 2019, s. 5 (w.e.f. 2-8-2019).

### Section 7. Power to transfer investigation to State Government

While investigating any offence under this Act, the Agency, having regard to the gravity of the offence and other relevant factors, may-

(a) if it is expedient to do so, request the State Government to associate itself with the investigation; or

(b) with the previous approval of the Central Government, transfer the case to the State Government for investigation and trial of the offence.

### Section 8. Power to investigate connected offences

While investigating any Scheduled Offence, the Agency may also investigate any other offence which the accused is alleged to have committed if the offence is connected with the Scheduled Offence.

### Section 9. State Government to extend assistance to National Investigation Agency

The State Government shall extend all assistance and co-operation to the Agency for investigation of the Scheduled Offences.

### Section 10. Power of State Government to investigate Scheduled Offences

Save as otherwise provided in this Act, nothing contained in this Act shall affect the powers of the State Government to investigate and prosecute any Scheduled Offence or other offences under any law for the time being in force.

## CHAPTER IV SPECIAL COURTS

### Section 11. Power of Central Government to [1][designate Court of Session as] Special Courts

(1) [2][The Central Government shall, in consultation with the Chief Justice of the High Court, by notification in the Official Gazette, for the trial of Scheduled Offences, designate one or more Courts of Session as Special Court] for such area or areas, or for such case or class or group of cases, as may be specified in the notification.

[3][Explanation.-For the purposes of this sub-section, the expression "High Court" means the High Court of the State in which a Court of Session to be designated as Special Court is functioning.]

(2) Where any question arises as to the jurisdiction of any Special Court, it shall be referred to the Central Government whose decision in the matter shall be final.

[4]* * * * *

(8) For the removal of doubts, it is hereby provided that the attainment, [5][by the Sessions Judge of the Court of Session referred to in sub-section (1)], of the age of superannuation under the rules applicable to him in the service to which he belongs shall not affect his continuance as [6][ judge of the Special Court and the appointing authority in consultation with the Central Government] may by order direct that he shall continue as judge until a specified date or until completion of the trial of the case or cases before him [7][, whichever is earlier].

[8][(9) When more than one Special Court is designated for an area or areas, the senior-most Judge shall distribute the business among them.]

[1] Subs. by s. 6, ibid., for "constitute" (w.e.f. 2-8-2019).

[2] Subs. by s. 6, ibid., for "The Central Government shall, by notification in the Official Gazette, for the trial of Scheduled Offences, constitute one or more Special Courts" (w.e.f. 2-8-2019).

[3] Ins. by s. 6, ibid. (w.e.f. 2-8-2019).

[4] Sub-sections (3), (4), (5), (6) and (7) omitted by s. 6, ibid. (w.e.f. 2-8-2019).

[5] Subs. by s. 6, ibid., for "by a person appointed as a Judge or an additional Judge of a Special Court" (w.e.f. 2-8-2019).

[6] Subs. by s. 6, ibid., for "such judge or additional judge and the Central Government" (w.e.f. 2-8-2019).

[7] Subs. by s. 6, ibid., for "as may be specified in that order" (w.e.f. 2-8-2019).

[8] Subs. by Act 16 of 2019, s. 6, for sub-section (9) (w.e.f. 2-8-2019).

### Section 12. Place of sitting

A Special Court may, on its own motion, or on an application made by the Public Prosecutor and if it considers it expedient or desirable so to do, sit for any of its proceedings at any place other than its ordinary place of sitting.

### Section 13. Jurisdiction of Special Courts

(1) Notwithstanding anything contained in the Code, every Scheduled Offence investigated by the Agency shall be tried only by the Special Court within whose local jurisdiction it was committed.

(2) If, having regard to the exigencies of the situation prevailing in a State if,-

(a) it is not possible to have a fair, impartial or speedy trial; or

(b) it is not feasible to have the trial without occasioning the breach of peace or grave risk to the safety of the accused, the witnesses, the Public Prosecutor or a judge of the Special Court or any of them; or

(c) it is not otherwise in the interests of justice,

the Supreme Court may transfer any case pending before a Special Court to any other Special Court within that State or in any other State and the High Court may transfer any case pending before a Special Court situated in that State to any other Special Court within the State.

(3) The Supreme Court or the High Court, as the case may be, may act under this section either on the application of the Central Government or a party interested and any such application shall be made by motion, which shall, except when the applicant is the Attorney-General for India, be supported by an affidavit or affirmation.

### Section 14. Powers of Special Courts with respect to other offences

(1) When trying any offence, a Special Court may also try any other offence with which the accused may, under the Code be charged, at the same trial if the offence is connected with such other offence.

(2) If, in the course of any trial under this Act of any offence, it is found that the accused person has committed any other offence under this Act or under any other law, the Special Court may convict such person of such other offence and pass any sentence or award punishment authorised by this Act or, as the case may be, under such other law.

### Section 15. Public Prosecutors

(1) The Central Government shall appoint a person to be the Public Prosecutor and may appoint one or more persons to be the Additional Public Prosecutor or Additional Public Prosecutors:

Provided that the Central Government may also appoint for any case or class or group of cases a Special Public Prosecutor.

(2) A person shall not be qualified to be appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an Advocate for not less than seven years or has held any post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

(3) Every person appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code, and the provisions of the Code shall have effect accordingly.

### Section 16. Procedure and powers of Special Courts

(1) A Special Court may take cognizance of any offence, without the accused being committed to it for trial, upon receiving a complaint of facts that constitute such offence or upon a police report of such facts.

(2) Where an offence triable by a Special Court is punishable with imprisonment for a term not exceeding three years or with fine or with both, the Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code, try the offence in a summary way in accordance with the procedure prescribed in the Code and the provisions of sections 263 to 265 of the Code shall, so far as may be, apply to such trial:

Provided that when, in the course of a summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is not desirable to try it in a summary way, the Special Court shall recall any witnesses who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the Code for the trial of such offence and the said provisions shall apply to, and in relation to, a Special Court as they apply to and in relation to a Magistrate:

Provided further that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding one year and with fine which may extend to five

lakh rupees.

(3) Subject to the other provisions of this Act, a Special Court shall, for the purpose of trial of any offence, have all the powers of a Court of Session and shall try such offence as if it were a Court of Session so far as may be in accordance with the procedure prescribed in the Code for the trial before a Court of Session.

(4) Subject to the other provisions of this Act, every case transferred to a Special Court under sub-section (2) of section 13 shall be dealt with as if such case had been transferred under section 406 of the Code to such Special Court.

(5) Notwithstanding anything contained in the Code, but subject to the provisions of section 299 of the Code, a Special Court may, if it thinks fit and for reasons to be recorded by it, proceed with the trial in the absence of the accused or his pleader and record the evidence of any witness, subject to the right of the accused to recall the witness for cross-examination.

### Section 17. Protection of witnesses

(1) Notwithstanding anything contained in the Code, the proceedings under this Act may, for reasons to be recorded in writing, be held in camera if the Special Court so desires.

(2) On an application made by a witness in any proceeding before it or by the Public Prosecutor in relation to such witness or on its own motion, if the Special Court is satisfied that the life of such witness is in danger, it may, for reasons to be recorded in writing, take such measures as it deems fit for keeping the identity and address of such witness secret.

(3) In particular, and without prejudice to the generality of the provisions of sub-section (2), the measures which a Special Court may take under that sub-section may include-

(a) the holding of the proceedings at a place to be decided by the Special Court;

(b) the avoiding of the mention of the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to public;

(c) the issuing of any directions for securing that the identity and address of the witnesses are not disclosed; and

(d) a decision that it is in the public interest to order that all or any of the proceedings pending before such a Court shall not be published in any manner.

(4) Any person who contravenes any decision or direction issued under sub-section (3) shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to one thousand rupees.

### Section 18. Sanction for prosecution

No prosecution, suit or other legal proceedings shall be instituted in any court of law, except with the previous sanction of the Central Government, against any member of the Agency or any person acting on his behalf in respect of anything done or purported to be done in exercise of the powers conferred by this Act.

### Section 19. Trial by Special Court to have precedence

The trial under this Act of any offence by a Special Court shall be held on day-to-day basis on all working days and have precedence over the trial of any other case against the accused in any other court (not being a Special Court) and shall be concluded in preference to the trial of such other case and accordingly the trial of such other case shall, if necessary, remain in abeyance.

### Section 20. Power to transfer cases to regular courts

Where, after taking cognizance of any offence, a Special Court is of the opinion that the offence is not triable by it, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for the trial of such offence to any court having jurisdiction under the Code and the Court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence.

### Section 21. Appeals

(1) Notwithstanding anything contained in the Code, an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of a Special Court to the High Court both on facts and on law.

(2) Every appeal under sub-section (1) shall be heard by a bench of two Judges of the High Court and shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.

(3) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order including an interlocutory order of a Special Court.

(4) Notwithstanding anything contained in sub-section (3) of section 378 of the Code, an appeal shall lie to the High Court against an order of the Special Court granting or refusing bail.

(5) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment, sentence or order appealed from:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days:

Provided further that no appeal shall be entertained after the expiry of period of ninety days.

### Section 22. Power of State Government to [1][designate Court of Session as] Special Courts

(1) The State Government may [2][designate one or more Courts of Session as] Special Courts for the trial of offences under any or all the enactments specified in the Schedule.

(2) The provisions of this Chapter shall apply to the Special Courts [3][designated] by the State Government under sub-section (1) and shall have effect subject to the following modifications, namely-

(i) references to "Central Government" in sections 11 and 15 shall be construed as references to State Government;

(ii) reference to "Agency" in sub-section (1) of section 13 shall be construed as a reference to the "investigation agency of the State Government";

(iii) reference to "Attorney-General for India" in sub-section (3) of section 13 shall be construed as reference to "Advocate-General of the State".

(3) The jurisdiction conferred by this Act on a Special Court shall, until a Special Court is [3][designated] by the State Government under sub-section (1) in the case of any offence punishable under this Act, notwithstanding anything contained in the Code, be exercised by the Court of Session of the division in which such offence has been committed and it shall have all the powers and follow the procedure provided under this Chapter.

(4) On and from the date when the Special Court is[3][designated] by the State Government the trial of any offence investigated by the State Government under the provisions of this Act, which would have been required to be held before the Special Court, shall stand transferred to that Court on the date on which it is [3][designated].

[1] Subs. by Act 16 of 2019, s. 7, for "constitute" (w.e.f. 2-8-2019).

[2] Subs. by s. 7, ibid., for "constitute one or more" (w.e.f. 2-8-2019).

[3] Subs. by s. 7, ibid., for "constituted" (w.e.f. 2-8-2019).

## CHAPTER V MISCELLANEOUS

### Section 23. Power of High Courts to make rules

The High Court may, by notification in the Official Gazette, make such rules, as it may deem necessary for carrying out the provisions of this Act relating to Special Courts within its territory.

### Section 24. Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made, under this section after the expiration of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

### Section 25. Power to make rules

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

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

(a) the manner of constitution of the Agency and the conditions of service of persons employed in the Agency under section 5;

(b) any other matter which is required to be, or may be, prescribed.

### Section 26. Laying of rules

Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agrees in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## Schedules

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THE SCHEDULE (official file, page 12)

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