

Bill No. 129 of 2019

THE NATIONAL INVESTIGATION AGENCY (AMENDMENT)
BILL, 2019

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BILL

to amend the National Investigation Agency Act, 2008.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the National Investigation Agency (Amendment) Act, 2019. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

34 of 2008.

2. In the National Investigation Agency Act, 2008 (hereinafter referred to as the principal Act), in section 1, in sub-section (2),— Amendment of section 1.

(i) in clause (b), the word "and" occurring at the end, shall be omitted;

(ii) in clause (c), after the words "may be", the word "and" shall be inserted;

(iii) after clause (c), the following clause shall be inserted, namely:—

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

- Amendment of section 2. **3.** In section 2 of the principal Act, in sub-section (1), in clause (h), for the words "a Special Court constituted", the words "a Court of Session designated as Special Court" shall be substituted. 5
- Amendment of section 3. **4.** In section 3 of the principal Act, in sub-section (2), after the word "India", the words "and, subject to any international treaty or domestic law of the concerned country, outside India," shall be inserted.
- Amendment of section 6. **5.** In section 6 of the principal Act, after sub-section (7), the following sub-sections shall be inserted, namely:— 10
- "(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. 15
- (9) For the purposes of sub-section (8), the Special Court at New Delhi shall have the jurisdiction."
- Amendment of section 11. **6.** In section 11 of the principal Act,—
- (i) in the marginal heading, for the word "constitute", the words "designate Court of Session as" shall be substituted; 20
- (ii) in sub-section (1),—
- (a) for the portion beginning with the words "The Central Government", and ending with the words "Special Courts", the words "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" shall be substituted; 25
- (b) the following *Explanation* shall be inserted, namely:—
- 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.'; 30
- (iii) sub-sections (3), (4), (5), (6) and (7) shall be omitted;
- (iv) in sub-section (8),—
- (a) for the words "by a person appointed as a Judge or an additional Judge of a Special Court", the words, brackets and figure "by the Sessions Judge of the Court of Session referred to in sub-section (1)" shall be substituted; 35
- (b) for the words "such judge or additional judge and the Central Government", the words "judge of the Special Court and the appointing authority in consultation with the Central Government" shall be substituted;
- (c) for the words "as may be specified in that order" occurring at the end, the words ",whichever is earlier" shall be substituted; 40
- (v) for sub-section (9), the following sub-section shall be substituted, namely:—
- "(9) When more than one Special Court is designated for an area or areas, the senior-most Judge shall distribute the business among them."

7. In section 22 of the principal Act,—

Amendment
of section 22.

(i) in the marginal heading, for the word "constitute", the words "designate Court of Session as" shall be substituted;

5 (ii) in sub-section (1), for the words "constitute one or more", the words "designate one or more Courts of Session as" shall be substituted;

(iii) in sub-sections (2), (3) and (4), for the word "constituted" wherever it occurs, the word "designated" shall be substituted.

8. In the Schedule to the principal Act,—

Amendment
of Schedule.

10 (i) for serial number 1 and the entry relating thereto, the following serial numbers and entries shall be substituted, namely:—

"1. The Explosive Substances Act, 1908 (6 of 1908);

1A. The Atomic Energy Act, 1962 (33 of 1962);"

(ii) in serial number 3, for the figures, brackets and word "1982 (65 of 1982)", the figures, brackets and word "2016 (30 of 2016)" shall be substituted;

15 (iii) in serial number 8, for entry (b), the following entries shall be substituted, namely:—

"(b) Sections 370 and 370A of Chapter XVI of the Indian Penal Code (45 of 1860);

20 (c) Sections 489-A to 489-E (both inclusive) of the Indian Penal Code (45 of 1860);

(d) Sub-section (IAA) of section 25 of Chapter V of the Arms Act, 1959 (54 of 1959);

(e) Section 66F of Chapter XI of the Information Technology Act, 2000 (21 of 2000)."

STATEMENT OF OBJECTS AND REASONS

The National Investigation Agency Act, 2008 (the Act) was enacted with a view 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.

2. In order to facilitate the speedy investigation and prosecution of Scheduled Offences, including those committed outside India against the Indian citizens or affecting the interest of India and to insert certain new offences in the Schedule to the Act as Scheduled Offences which adversely affect the national security, it has become necessary to amend certain provisions of the Act.

3. The National Investigation Agency (Amendment) Bill, 2019, *inter alia*, provides for the following, namely:—

(i) to insert a new clause (d) in sub-section (2) of section 1 of the Act so as to apply the provisions of the Act also to persons who commit a Scheduled Offence beyond India against the Indian citizens or affecting the interest of India;

(ii) to amend sub-section (2) of section 3 of the Act to provide that the officers of the National Investigation Agency shall have the similar powers, duties, privileges and liabilities, being exercised by the police officers in connection with the investigation of offences, not only in India but also outside India;

(iii) to amend section 6 of the Act so as to empower the Central Government, with respect to a Scheduled Offence committed outside India, to direct the Agency to register the case and take up investigation as if such offence has taken place in India;

(iv) to amend sections 11 and 22 of the Act so as to provide that the Central Government and the State Governments may designate one or more Courts of Session as Special Court or Special Courts for conducting the trial of offences under the Act; and

(v) to amend Schedule of the Act so as to insert certain new offences in the said Schedule.

4. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 28th June, 2019.

AMIT SHAH

ANNEXURE

EXTRACTS FROM THE NATIONAL INVESTIGATION AGENCY ACT, 2008
(34 OF 2008)

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CHAPTER I

PRELIMINARY

1. (1) * * * * * Short title, extent and application.

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

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(b) to persons in the service of the Government wherever they may be; and

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

2. (1) In this Act, unless the context otherwise requires,—

* * * * * Definitions.

(h) "Special Court" means a Special Court constituted under section 11 or, as the case may be, under section 22;

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CHAPTER II

NATIONAL INVESTIGATION AGENCY

3. (1) * * * * * Constitution of National Investigation Agency.

(2) Subject to any orders which the Central Government may make in this behalf, officers of the Agency shall have throughout 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.

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CHAPTER IV

SPECIAL COURTS

11. (1) The Central Government shall, by notification in the Official Gazette, for the trial of Scheduled Offences, constitute one or more Special Courts for such area or areas, or for such case or class or group of cases, as may be specified in the notification.

* * * * * Power of Central Government to constitute Special Courts.

(3) A Special Court shall be presided over by a judge to be appointed by the Central Government on the recommendation of the Chief Justice of the High Court.

(4) The Agency may make an application to the Chief Justice of the High Court for appointment of a Judge to preside over the Special Court.

(5) On receipt of an application under sub-section (4), the Chief Justice shall, as soon as possible and not later than seven days, recommend the name of a judge for being appointed to preside over the Special Court.

(6) The Central Government may, if required, appoint an additional judge or additional judges to the Special Court, on the recommendation of the Chief Justice of the High Court.

(7) A person shall not be qualified for appointment as a judge or an additional judge of a Special Court unless he is, immediately before such appointment, a Sessions Judge or an Additional Sessions Judge in any State.

(8) For the removal of doubts, it is hereby provided that the attainment, by a person appointed as a judge or an additional judge of a Special Court, of the age of superannuation under the rules applicable to him in the service to which he belongs shall not affect his continuance as such judge or additional judge and 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 as may be specified in that order.

(9) Where any additional judge or additional judges is or are appointed in a Special Court, the judge of the Special Court may, from time to time, by general or special order, in writing, provide for the distribution of business of the Special Court among all judges including himself and the additional judge or additional judges and also for the disposal of urgent business in the event of his absence or the absence of any additional judge.

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Power of State
Government
to constitute
Special Courts.

22. (1) The State Government may constitute one or more 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 constituted 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 constituted 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 constituted 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 constituted.

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THE SCHEDULE

[See section 2(1) (f)]

1. The Atomic Energy Act, 1962 (33 of 1962);

* * * * *

3. The Anti-Hijacking Act, 1982 (65 of 1982);

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8. Offences under—

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(b) Sections 489-A to 489-E (both inclusive) of the Indian Penal Code (45 of 1860).

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further to amend the National Investigation Agency Act, 2008.

(Shri Amit Shah, Minister of Home Affairs)