

THE SPECIAL JUDGES ACT, 1946.

[BURMA ACT NO. IX OF 1946.]

WHEREAS it is expedient to provide for the appointment of Special Judges for the trial of offences and to define their jurisdiction and powers ;

AND WHEREAS by Proclamation, dated the tenth day of December, 1942, the Governor of Burma has assumed to himself all powers vested by or under the Government of Burma Act, 1935, in the Legislature or in either Chamber thereof ;

NOW, THEREFORE, in exercise of the said powers, it is hereby enacted as follows :—

1. (1) This Act may be called the Special Judges Act, 1946.

Short title and  
duration.

(2) It shall remain in force until the Governor, by notification, declares it to be no longer in force, and such notification may declare it to be no longer in force throughout the whole of British Burma or throughout any local area or local areas specified in the notification.

2. In this Act—

(a) " Code " means the Code of Criminal Procedure ;  
(b) " High Court " means the High Court of Judicature at Rangoon ;  
(c) the expression " Special Judge " includes " Special Judges " in areas where more than one Special Judge is appointed to exercise powers under this Act.

Interpretation.

3. (1) All Sessions Judges and Additional Sessions Judges

Appointment of Special  
Judges.

appointed under section 9 of the Code, shall, by virtue of their office, be Special Judges.

(2) The Governor may appoint any other person qualified under sub-section (5) to be a Special Judge and may define the territorial limits of the jurisdiction of such Special Judge.

(3) A Special Judge may be appointed for the trial of a particular accused person or persons, and the Governor may direct that for the trial of any person or persons two or more Special Judges shall sit together as a Bench.

(4) The place of sitting of a Special Judge appointed to a Sessions division shall be decided by the Sessions Judge.

(5) Any person who has for at least two years exercised the powers of a Magistrate of the first class, or is an Advocate of the High Court or a Pleader of the Higher Grade of at least five years' standing, may be appointed a Special Judge.

4. (1) A Special Judge may try any offence punishable under any

Powers of Special  
Judges.

law for the time being in force, and may pass any sentence which is authorized by law.

(2) A Special Judge may take cognizance of an offence in any of the modes prescribed by sub-section (1) of section 190 of the Code, and the provisions of section 191 of the Code shall not be applicable to proceedings before a Special Judge.

5. (1) A Special Judge may take cognizance of offences without

Procedure of Special  
Judges.

the accused being committed for trial, and in trying accused persons shall follow the procedure prescribed by the Code for the trial of warrant cases by Magistrates :

Provided that a Special Judge may refuse to summon any witness if satisfied that the evidence of such witness will not be material, and

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shall not be bound to adjourn a trial for any purpose whatsoever, unless such adjournment is, in his opinion, necessary in the interests of justice.

(2) Sections 337, 339 and 339A of the Code of Criminal Procedure shall apply to trials before a Special Judge, with the following modifications :—

- (i) in sub-section (1) of section 337, *after* the words " any Magistrate of the first class " the words " or a Special Judge " shall be *inserted* ;
- (ii) in sub-section (1A) of section 337, *after* the word " Magistrate ", occurring in two places, the words " or Special Judge " shall be *inserted* ;
- (iii) in sub-section (2) of section 337, *after* the word " Magistrate " the words " or Special Judge " shall be *inserted* ;
- (iv) to sub-section (2A) of section 337, the following proviso shall be *added*, namely :—

" Provided that the Magistrate may, if he thinks fit, send the accused for trial before a Special Judge " ;

- (v) in clause (b) of sub-section (1) of section 339A, *after* the word " Magistrate " the words " or a Special Judge " shall be *inserted* ;

- (vi) in sub-section (2) of section 339A, *after* the words " the Magistrate " the words " or the Special Judge " shall be *inserted*.

47  
| 47

6. (1) The provisions of Chapter XXVII of the Code shall apply to sentences of death passed by a Special Judge as if the sentence were a sentence passed by a Court of Session.

Confirmation, Appeal  
and Revision.

7

(2) Any person convicted on a trial held by a Special Judge may appeal to the High Court :

Provided that the provisions of sections 412 and 413 of the Code shall apply to such appeals as if the person had been convicted by a Court of Session.

(3) The proceedings of Special Judges shall be subject to revision by the High Court or the Sessions Judge, and the provisions of sections 435 to 442, inclusive, of the Code shall apply to such revisions.

7. Save as otherwise provided in this Act, the provisions of the Code and of any other law for the time being in force shall, to such extent as they may be applicable, apply to trials before a Special Judge and to all matters connected with or arising from such trials

Application of the  
Code and other laws.

8. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act, and the powers conferred on the High Court by section 491 of the Code shall not be exercised in respect of any person arrested or committed to or detained in custody under this Act.

Bar to legal pro-  
ceedings.

9. The Special Judges Act, 1943, is hereby repealed :

Provided that any trial or other proceeding instituted and pending under the said Act when this Act comes into force shall be deemed to have been instituted under this Act and shall be continued as if it had been so instituted.

Repeal of Burma Act X  
of 1943.