

Essential Commodities Act, 1955

Section 12A - CONSTITUTION OF SPECIAL COURTS. 30[

1) The State Government may, for the purpose of providing speedy trial of the offences under this Act, by notification in the Official Gazette, constitute as many Special Courts as may be necessary for such area or areas as may be specified in the notification. (2) A Special Court shall consist of a single judge who shall be appointed by the High Court upon a request made by the State Government. (3) A person shall not be qualified for appointment as a judge of a Special Court unless- (a) he is qualified for appointment as a judge of a High Court, or (b) he has, for a period of not less than one year, been a Sessions Judge or an Additional Sessions Judge. SECTION 12AA: OFFENCES TRIABLE BY SPECIAL COURTS (1) Notwithstanding anything contained in the Code,- (a) all offences under this Act shall be triable only by the Special Court constituted for the area in which the offence has been committed or where there are more Special Courts than one for such area, by such one of them as may be specified in this behalf by the High Court ; (b) where a person accused of or suspected of the commission of an offence under this Act is forwarded to a Magistrate under sub-section (2) or sub- section (2A) of section 167-of the Code, such Magistrate may authorise the detention of such person in such custody as he thinks fit for a period not exceeding fifteen days in the whole where such Magistrate is a Judicial Magistrate and seven days in the whole where such Magistrate is an Executive Magistrate: Provided that where such Magistrate considers - (i) when such person is forwarded to him as aforesaid ; or (ii) upon or at any time before the expiry of the period of detention authorised by him; that the detention of such person is unnecessary, he may, if he is satisfied that the case falls under the proviso to-section 8, order the release of such person on bail and if he is not so satisfied, he shall order such person to be forwarded to the Special Court having jurisdiction ; (c) the Special Court may, subject to the provisions of clause (d) of this sub- section, exercise, in relation to the person forwarded to it under clause (b), the same power which a Magistrate having jurisdiction to try a case may exercise under section 167-of the Code in relation to an accused person in such case who has been forwarded to him under that section ; (d) save as aforesaid no person accused of or suspected of the commission of an offence under this Act shall be released on bail by any court other than a Special Court or the High Court : Provided that a Special Court shall not release any such person on bail - (i) without giving the prosecution an opportunity to oppose the application for such release unless the Special Court, for reasons to be recorded in writing, is of opinion that it is not practicable to give such opportunity; and (ii) where the prosecution opposes the application, if the Special Court is satisfied that there appear reasonable grounds for believing that he has been guilty of the offence concerned : Provided further that the Special Court may direct that any such person may be released on bail if he is under the age of sixteen years or is a woman or is a sick or infirm person, or if the Special Court is satisfied that it is just and proper so to do Tor any other special reason to be recorded in writing; (e) a Special Court may, upon a perusal of police report of the facts constituting an offence under this Act 31[or upon a complaint made by an officer of the Central Government or a State Government authorised in this behalf by the Government concerned]32[or any person aggrieved or any recognised consumer association, whether such person is a member of that association or not,] take cognizance of that offence without the accused being committed to it for trial ; (f) all offences under this Act shall be tried in a summary way and the provisions of sections 262-to265- (both inclusive) of the Code shall, as far as may be, apply to such trial : Provided that in the case of any Offences triable by Special Courts Page 2 of 2 conviction in a summary trial under this section, it shall be lawful for the Special Court to pass a sentence of imprisonment for a term not exceeding two years. (2) When trying an offence under this Act, a Special Court may also try an offence other than an offence under this Act, with which the accused may, under the Code, be charged at the same trial : Provided that such other offence is, under any other law for the time being in force, triable in a summary way : Provided further that in the case of any conviction for such other offence in such trial, it shall not be lawful for the Special Court to pass a sentence of imprisonment for a term exceeding the term provided for conviction in a summary trial under such other law. (3) A Special Court may, with a view to

obtaining the evidence of any person suspected to have been directly or indirectly concerned in, or privy to, an offence under this Act, tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating 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 section 308-of the Code, be deemed to have been tendered under section 307-thereof. (4) Nothing contained in this section shall be deemed to affect the special powers of the High Court regarding bail under section 439-of the Code and the High Court may exercise such powers including the power under clause (b) of sub-section (1) of that section as if the reference to "Magistrate" in that section included also a reference to a "Special Court" constituted under section 12A.- SECTION 12AB: APPEAL AND REVISION The High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code on a High Court, as if a Special Court within the local limits of the jurisdiction of the High Court were a Court of Sessions trying cases within the local limits of the jurisdiction of the High Court. SECTION 12AC: APPLICATION OF CODE TO PROCEEDINGS BEFORE A SPECIAL COURT Save as otherwise provided in this Act, the provisions of the Code (including the provisions as to bail and bonds) shall apply to the proceedings before a Special Court and for the purposes of the said provisions, the Special Court shall be deemed to be a Court of Sessions and the person conducting a prosecution before a Special Court, shall be deemed to be a Public Prosecutor.]

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