

The Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992

(ACT NO. 27 OF 1992)

[*As on the* 15*th December,* 2025]

LIST OF AMENDING ACTS

1. The Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Act, 1994 (24 of 1994).
2. The Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Act, 1997 (6 of 1997).

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LIST OF ABBREVIATIONS USED

Cl., cls.	*for*	Clause, clauses.
Ins.	,,	Inserted.
Notifn.	,,	Notification.
S., ss.	,,	Section, sections.
Sch.	,,	Schedule.
Subs.	,,	Substituted.
w.e.f.	,,	with effect from.

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THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO TRANSACTIONS IN SECURITIES) ACT, 1992

ARRANGEMENT OF SECTIONS

SECTIONS

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THE SPECIAL COURT (TRIAL OF OFFENCES RELATING TO TRANSACTIONS IN SECURITIES) ACT, 1992

ACT NO. 27 OF 1992

[18*th August*, 1992.]

An Act to provide for the establishment of a Special Court for the trial of offences relating to transactions in securities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-third Year of the Republic of India as follows:—

1. Short title and commencement.—(*1*) This Act may be called the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992.

(*2*) It shall be deemed to have come into force on the 6th day of June, 1992.

2. Definitions.—In this Act, unless the context otherwise requires,—

(*a*) "Code" means the Code of Criminal Procedure, 1973 (2 of 1974);

(*b*) "Custodian" means the Custodian appointed under sub-section (*1*) of section 3;

(*c*) "securities" includes—

(*i*) shares, scrips, stocks, bonds, debentures, debenture stock, units of the Unit Trust of India or any other mutual fund or other marketable securities of a like nature in or of any incorporated company or other body corporate;

(*ii*) Government securities; and

(*iii*) rights or interests in securities;

(*d*) "Special Court" means the Special Court established under sub-section (*1*) of section 5.

3. Appointment and functions of Custodian.—(*1*) The Central Government may appoint one or more Custodians as it may deem fit for the purposes of this Act.

(*2*) The Custodian may, on being satisfied on information received that any person has been involved in any offence relating to transactions in securities after the 1st day of April, 1991 and on and before the 6th June, 1992, notify the name of such person in the Official Gazette.

(*3*) Notwithstanding anything contained in the Code and any other law for the time being in force, on and from the date of notification under sub-section (*2*), any property, movable or immovable, or both, belonging to any person notified under that sub-section shall stand attached simultaneously with the issue of the notification.

(*4*) The property attached under sub-section (*3*) shall be dealt with by the Custodian in such manner as the Special Court may direct.

(*5*) The Custodian may take assistance of any person while exercising his powers or for discharging his duties under this section and section 4.

4. Contracts entered into fraudulently may be cancelled.—(*1*) If the Custodian is satisfied, after such inquiry as he may think fit, that any contract or agreement entered into at any time after the 1st day of April, 1991 and on and before the 6th June, 1992 in relation to any property of the person notified under sub-section (*2*) of section 3 has been entered into fraudulently or to defeat the provisions of this Act, he may cancel such contract or agreement and on such cancellation such property shall stand attached under this Act:

Provided that no contract or agreement shall be cancelled except after giving to the parties to the contract or agreement a reasonable opportunity of being heard.

(*2*) Any person aggrieved by a notification issued under sub-section (*2*) of section 3 or any cancellation made under sub-section (*1*) of section 4 or any other order made by the Custodian in exercise of the powers conferred on him under section 3 or 4 may file a petition objecting to the same within thirty days of the assent to the Special Court (Trial of Offences Relating to Transactions in Securities) Bill, 1992 by the President before the Special Court where such notification, cancellation or order has been

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issued before the date of assent to the Special Court (Trial of Offences Relating to Transactions in Securities) Bill, 1992 by the President and where such notification, cancellation or order has been issued on or after that date, within thirty days of the issuance of such notification, cancellation or order, as the case may be; and the Special Court after hearing the parties, may make such order as it deems fit.

5. Establishment of Special Court.—(*1*) The Central Government shall, by notification in the Official Gazette, establish a Court to be called the Special Court.

(*2*) The Special Court shall consist of [1][one or more sitting Judges] of the High Court nominated by the Chief Justice of the High Court within the local limits of whose jurisdiction the Special Court is situated, with the concurrence of the Chief Justice of India.

[2][(*3*) When the office of [3][a Judge of the Special Court] is vacant by reason of absence or leave, the duties of the office shall be performed by such Judge of the High Court within the local limits of whose jurisdiction the Special Court is situated as the Chief Justice of that High Court may, with the concurrence of the Chief Justice of India, nominate for the purpose and the Judge so appointed shall have all the jurisdiction and powers of [3][a Judge of the Special Court] including the powers to pass final orders.]

[4][**5A. Distribution of cases amongst Judges of Special Court.**—Where the Special Court consists of two or more Judges, the Chief Justice of the High Court within the local limits of whose jurisdiction the Special Court is situated may, from time to time, by general or special order, make provisions as to the distribution of cases amongst the Judges and specify the matters which may be dealt with by each of such Judge.]

6. Cognizance of cases by Special Court.—The Special Court shall take cognizance of or try such cases as are instituted before it or transferred to it as hereinafter provided.

7. Jurisdiction of Special Court.—Notwithstanding anything contained in any other law, any prosecution in respect of any offence referred to in sub-section (*2*) of section 3 shall be instituted only in the Special Court and any prosecution in respect of such offence pending in any court shall stand transferred to the Special Court.

8. Jurisdiction of Special Court as to joint trials.—The Special Court shall have jurisdiction to try any person concerned in the offence referred to in sub-section (*2*) of section 3 either as a principal conspirator or abettor and all other offences and accused persons as can be jointly tried therewith at one trial in accordance with the Code.

9. Procedure and powers of Special Court.—(*1*) The Special Court shall, in the trial of such cases, follow the procedure prescribed by the Code for the trial of warrant cases before a magistrate.

(*2*) Save as expressly provided in this Act, the provisions of the Code shall, in so far as they are not inconsistent with the provisions of this Act, apply to the proceedings before the Special Court and for the purposes of the said provisions of the Code, the Special Court shall be deemed to be a Court of Session and shall have all the powers of a Court of Session, and the person conducting a prosecution before the Special Court shall be deemed to be a Public Prosecutor.

(*3*) The Special Court 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.

(*4*) While dealing with any other matter brought before it, the Special Court may adopt such procedure as it may deem fit consistent with the principles of natural justice.

[5][**9A. Jurisdiction, powers, authority and procedure of Special Court in civil matters.**—(*1*) On and from the commencement of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Act, 1994 (24 of 1994) the Special Court shall exercise all such jurisdiction, powers and authority as were exercisable, immediately before such commencement, by any civil court in relation to any matter or claim—

(*a*) relating to any property standing attached under sub-section (*3*) of section 3;

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1. Subs. by Act 6 of 1997, s. 2 for "a sitting Judge" (w.e.f. 16-1-1997).
2. Ins. by Act 24 of 1994, s. 2 (w.e.f. 25-1-1994).
3. Subs. by Act 6 of 1997, s. 2, for "the Judge of the Special Court" (w.e.f. 16-1-1997).
4. Ins. by s. 3, *ibid*. (w.e.f. 16-1-1997).
5. Ins. by Act 24 of 1994, s. 3 (w.e.f. 25-1-1994).

(*b*) arising out of transactions in securities entered into after the 1st day of April, 1991, and on or before the 6th day of June, 1992, in which a person notified under sub-section (*2*) of section 3 is involved as a party, broker, intermediary or in any other manner.

(*2*) Every suit, claim or other legal proceeding (other than an appeal) pending before any court immediately before the commencement of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Act, 1994 (24 of 1994), being a suit, claim or proceeding, the cause of action whereon it is based is such that it would have been, if it had arisen after such commencement, within the jurisdiction of the Special Court under sub-section (*1*), shall stand transferred on such commencement to the Special Court and the Special Court may, on receipt of the records of such suit, claim or other legal proceeding, proceed to deal with it, so far as may be, in the same manner as a suit, claim or legal proceeding from the stage which was reached before such transfer or from any earlier stage or *de novo* as the Special Court may deem fit.

(*3*) On and from the commencement of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Act, 1994 (24 of 1994), no court other than the Special Court shall have, or be entitled to exercise, any jurisdiction, power or authority in relation to any matter or claim referred to in sub-section (*1*).

(*4*) While dealing with cases relating to any matter or claim under this section, the Special Court shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908), but shall be guided by the principles of natural justice, and subject to the other provisions of this Act and of any rules, the Special Court shall have power to regulate its own procedure.

(*5*) Without prejudice to the other powers conferred under this Act, the Special Court shall have, for the purposes of discharging its functions under this section, the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely:—

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) requiring the discovery and production of documents;

(*c*) receiving evidence on affidavits;

(*d*) subject to the provisions of sections 123 and 124 of the Indian Evidence Act, 1872 (1 of 1872), requisitioning any public record or document or copy of such record or document from any office;

(*e*) issuing commissions for the examination of witnesses or documents;

(*f*) reviewing its decisions;

(*g*) dismissing a case for default or deciding it *ex parte*;

(*h*) setting aside any order of dismissal of any case for default or any order passed by it *ex parte*; and

(*i*) any other matter which may be prescribed by the Central Government under sub-section (*1*) of section 14.

9B. Powers of the Special Court in arbitration matters.—(*1*) The Special Court shall have the jurisdiction and powers of a Court conferred under the Arbitration Act, 1940 (10 of 1940) to decide any question forming subject matter of a reference relating to any matter or claim mentioned in sub-section (*1*) of section 9A.

(*2*) Every suit or other proceeding (other than an appeal) in relation to any matter or claim referred to in sub-section (*1*) of section 9A pending before any Court and governed by the Arbitration Act, 1940 (10 of 1940), immediately before the date of commencement of the Special Court (Trial of Offences Relating to Transactions in Securities) Amendment Act, 1994 (24 of 1994) shall stand transferred on that date to the Special Court.

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Explanation.—For the purposes of this section, the expressions "Court" and "reference" shall have respectively the same meanings as defined under clauses (*c*) and (*e*) of section 2 of the Arbitration Act, 1940 (10 of 1940).]

10. Appeal.—(*1*) Notwithstanding anything in the Code [1][or the Code of Civil Procedure,1908 (5 of 1908) or the Arbitration Act, 1940 (19 of 1940)], an appeal shall lie from any judgment [1][, decree] sentence or order, not being interlocutory order, of the Special Court to the Supreme Court both on facts and on law.

(*2*) Except as aforesaid, no appeal or revision shall lie to any Court from any judgment [1][, decree] sentence or order of the Special Court.

(*3*) Every appeal under this section shall be preferred within a period of thirty days from the date of any judgment, sentence or order of the Special Court:

Provided that the Supreme 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.

11. Discharge of liabilities.—(*1*) Notwithstanding anything contained in the Code and any other law for the time being in force, the Special Court may make such order as it may deem fit directing the Custodian for the disposal of the property under attachment.

(*2*) The following liabilities shall be paid or discharged in full, as far as may be, in the order as under:—

(*a*) all revenues, taxes, cesses and rates due from the persons notified by the Custodian under sub-section (*2*) of section 3 to the Central Government or any State Government or any local authority;

(*b*) all amounts due from the person so notified by the Custodian to any bank or financial institution or mutual fund;

(*c*) any other liability as may be specified by the Special Court from time to time.

[2][**11A. Power to punish for contempt.**—The Special Court shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971 (70 of 1971), shall have effect subject to the modifications that—

(*a*) the references therein to a High Court shall be construed as including a reference to such Special Court;

(*b*) the references to the Advocate-General in section 15 of the said Act, shall be construed, in relation to the Special Court, as a reference to the Attorney-General or the Solicitor-General or the Additional Solicitor-General.]

12. Protection of action taken in good faith.—(*1*) No suit, prosecution or other legal proceeding shall lie against the Central Government or the Custodian for anything which is in good faith done or intended to be done under this Act.

(*2*) No suit or other legal proceeding shall lie against the Central Government or any of its officers or other employees for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

13. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law, other than this Act, or in any decree or order of any court, tribunal or other authority.

1. Ins. by Act 24 of 1994, s. 4 (w.e.f. 25-1-1994).
2. Ins. by s. 5, *ibid*. (w.e.f. 25-1-1994).

14. 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*) 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 agree 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.

15. Repeal and savings.—(*1*) The Special Court (Trial of Offences Relating to Transactions in Securities) Ordinance, 1992 (Ord. 10 of 1992) is hereby repealed.

(*2*) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

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STATEMENT OF OBJECTS AND REASONS

In the course of the investigations by the Reserve Bank of India, large scale irregularities and malpractices were noticed in transactions, in both the Government and other securities, indulged in by some brokers in collusion with the employees of various banks and financial institutions. The said irregularities and malpractices led to the diversion of funds from banks and financial institutions to the individual accounts of certain brokers.

2. To deal with the situation and in particular to ensure the speedy recovery of the huge amount involved, to punish the guilty and restore confidence in and maintain the basic integrity and credibility of the banks and financial institutions the Special Court (Trial of Offences Relating to Transactions in Securities) Ordinance, 1992 was promulgated on the 6th June, 1992. The Ordinance provides for the establishment of a Special Court with a sitting Judge of a High Court for speedy trial of offences relating to transactions in securities and disposal of properties attached. It also provides for appointment of one or more Custodians for attaching the property of the offenders with a view to prevent diversion of such properties by the offenders.

3. The Bill seeks to replace the said Ordinance.

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NEW DELHI. MANMOHAN SINGH.

The 7th July, 1992.