

ACT No. IV OF 1915.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 19th March, 1915.)

An Act to provide for special measures to secure the public safety and the defence of British India and for the more speedy trial of certain offences.

WHEREAS owing to the existing state of war it is expedient to provide for special measures to secure the public safety and the defence of British India and for the more speedy trial of certain offences; It is hereby enacted as follows:—

1. (1) This Act may be called the Defence of India (Criminal Law Amendment) Act, 1915.

Short title, extent and duration.

(2) It extends to the whole of British India including British Baluchistan, the Sonthal Parganas and the district of Angul.

(3) This section and section 2 shall come into operation at once. The Governor General in Council may, by notification in the Gazette of India, direct that the rest of the Act shall come into operation in any province or part thereof on such date as may be specified in such notification.

(4) This Act shall be in force during the continuance of the present war and for a period of six months thereafter:

Provided that the expiration of this Act shall not affect the validity of anything done in pursuance of it and any person convicted under this Act may be punished

punished as if it had continued in force, and all prosecutions and other legal proceedings pending under this Act at the time of the expiration thereof may be completed and carried into effect, and the sentences carried into execution as if this Act had not expired.

Power to
make rules.

2. (1) The Governor General in Council may make rules for the purpose of securing the public safety and the defence of British India and as to the powers and duties of public servants and other persons in furtherance of that purpose.

In particular and without prejudice to the generality of the foregoing power, rules under this section may be made—

- (a) to prevent persons communicating with the enemy or obtaining information which may be used for that purpose;
- (b) to secure the safety of His Majesty's forces and ships and to prevent the prosecution of any purpose likely to jeopardise the success of the operations of His Majesty's forces or the forces of His Allies or to assist the enemy;
- (c) to prevent the spread of false reports or reports likely to cause disaffection or alarm or to prejudice His Majesty's relations with Foreign Powers or to promote feelings of enmity and hatred between different classes of His Majesty's subjects;
- (d) to empower any civil or military authority to issue such orders and take such measures as may be necessary to secure the safety of railways, ports, dockyards, telegraphs, post offices, works for the supply of gas, electric light or water, sources of water-supply, all means of communication and any areas which may be notified by such civil or military authority, as areas which it is necessary to safeguard in the public interest;

(e) to

- (e) to enable any naval or military authority to take possession of any property, moveable or immoveable, for naval or military purposes, and to issue such orders and do such acts in respect of any property as may be necessary to secure the public safety or the defence of British India or any part thereof;
- (f) to empower any civil or military authority where, in the opinion of such authority, there are reasonable grounds for suspecting that any person has acted, is acting or is about to act in a manner prejudicial to the public safety, to direct that such person shall not enter, reside or remain in any area specified in writing by such authority, or that such person shall reside and remain in any area so specified, or that he shall conduct himself in such manner or abstain from such acts, or take such order with any property in his possession or under his control, as such authority may direct;
- (g) to prohibit or regulate the possession of explosives, inflammable substances, arms and all other munitions of war;
- (h) to prohibit anything likely to prejudice the training or discipline of His Majesty's forces and to prevent any attempt to tamper with the loyalty of persons in the service of His Majesty or to dissuade persons from entering the military or police service of His Majesty;
- (i) to empower any civil or military authority to enter and search any place if such authority has reason to believe that such place is being used for any purpose prejudicial to the public safety or to the defence of British India and to seize anything found there which he has reason
to

to believe is being used for any such purpose ;

- (j) to provide for the arrest of persons contravening or reasonably suspected of contravening any rule made under this section and prescribing the duties of public servants and other persons in regard to such arrests ;
- (k) to prescribe the duties of public servants and other persons as to preventing any contravention of rules made under this section and to prohibit any attempt to screen persons contravening any such rule from punishment ; and
- (l) otherwise to prevent assistance being given to the enemy or the successful prosecution of the war being endangered.

(2) Rules made under this section may provide that any contravention thereof or of any order issued under the authority of any such rule shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or with both, or if the intention of the person so contravening any such rule or order is to assist the King's enemies or to wage war against the King, may provide that such contravention shall be punishable with death, transportation for life or imprisonment for a term which may extend to ten years, to any of which punishments fine may be added.

(3) All rules made under this section shall be published in the Gazette of India and shall thereupon have effect as if enacted in this Act.

Power of
Local Gov-
ernment
to direct
accused
person to be
tried by Com-
missioners.

3. (1) The Local Government may by order in writing direct that any person accused of anything which is an offence in virtue of any rule made under section 2, or accused of any offence punishable with death, transportation or imprisonment for a term which may extend to seven years, or of criminal conspiracy to commit, or of abetting, or of attempting to

to commit or abet any such offence shall be tried by Commissioners appointed under this Act.

(2) Orders under sub-section (1) may be made in respect of all persons accused of any offence referred to in that sub-section, or in respect of any class of person so accused, or in respect of persons or classes of persons accused of any particular offence therein referred to or accused of any class of such offences.

Act V of
1898.

XIV of 1908.

(3) No order under sub-section (1) shall be made in respect of or be deemed to include any person who has been committed under the Code of Criminal Procedure, 1898, for trial before a High Court, or in whose case an order for trial has been made under section 6 of the Indian Criminal Law Amendment Act, 1908, but, save as aforesaid, an order under that sub-section may be made in respect of or may include any person accused of any offence referred to therein whether such offence was committed before or after the commencement of this Act.

4. (1) Commissioners for the trial of persons under this Act shall be appointed by the Local Government. Appointment and qualifications of Commissioners.

(2) Such Commissioners may be appointed for the whole province or any part thereof or for the trial of any particular accused person or class of accused persons.

24 and 25
Vict., c. 104.

(3) All trials under this Act shall be held by three Commissioners, of whom at least two shall be persons who have served as Sessions Judges or Additional Sessions Judges for a period of not less than three years, or are persons qualified under section 2 of the Indian High Courts Act, 1861, for appointment as Judges of a High Court or are advocates of a Chief Court or pleaders of ten years' standing.

5. (1) Commissioners appointed under this Act may take cognizance of offences without the accused being committed to them for trial, and, in trying accused persons, shall, subject to any rules made by the Procedure of Commissioners.

the Local Government in this behalf, follow the procedure prescribed by the Code of Criminal Procedure, Act V of 1898, for the trial of warrant cases by magistrates :

Provided that such Commissioners shall make a memorandum only of the substance of the evidence of each witness examined, and shall not be bound to adjourn any trial for any purpose unless such adjournment is in their opinion necessary in the interests of justice.

(2) In the event of any difference of opinion between the Commissioners the opinion of the majority shall prevail.

Powers of
Commissioners.

6. (1) The judgment of Commissioners appointed under the Act shall be final and conclusive and such Commissioners may pass upon any person convicted by them any sentence authorised by law for the punishment of the offence of which such person is convicted and no order of confirmation shall be necessary in the case of any sentence passed by them.

(2) If in any trial under this Act it is proved that the accused person has committed any offence whether referred to in section 3 or in any order under that section or not, the Commissioners may convict such accused person of such offence and pass any sentence authorised by law for the punishment thereof.

Application of
Criminal Pro-
cedure Code
subject to
modifications
to proceedings
under this
Act.

7. The provisions of the Code of Criminal Procedure, 1898, so far as they are inconsistent with the special procedure prescribed by or under this Act, shall not apply to the proceedings of Commissioners appointed under this Act, but save as otherwise provided, that Code shall apply to such proceedings and the Commissioners shall have all the powers conferred by the Code on a Court of Session exercising original jurisdiction. Act V of 1898.

Exclusion of
interference
of other cri-
minal courts.

8. (1) Notwithstanding the provisions of the Code of Criminal Procedure, 1898, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done, there shall be no appeal from any order or sentence of Commissioners appointed under this Act, and no Act V of 1898.

Court

Act V of
1898.

Court shall have authority to revise any such order or sentence, or to transfer any case from such Commissioners, or to make any order under section 491 of the Code of Criminal Procedure, 1898, or have any jurisdiction of any kind in respect of any proceedings under this Act.

Act V of
1898.

(2) Nothing in sub-section (1) shall be deemed to affect the power of the Governor General in Council or the Local Government to make orders under section 401 or 402 of the Code of Criminal Procedure, 1898, in respect of persons sentenced by Commissioners under this Act.

I of 1872.

9. Notwithstanding anything contained in the Indian Evidence Act, 1872, where the statement of any person has been recorded by a Magistrate, such statement may be admitted in evidence in any trial before Commissioners appointed under this Act if such person is dead or cannot be found or is incapable of giving evidence, and the Commissioners are of opinion that such death, disappearance or incapacity has been caused in the interest of the accused.

Special rule of
evidence.

10. The Local Government may, by notification in the local official Gazette, make rules providing for—

Rule-making
powers of
Local Govern-
ment.

- (i) the times and places at which Commissioners appointed under this Act may sit ;
- (ii) the procedure of such Commissioners including the appointment and powers of their President, and the procedure to be adopted in the event of any Commissioner being prevented from attending throughout the trial of any accused person ;
- (iii) the manner in which prosecutions before such Commissioners shall be conducted, and the appointment and powers of persons conducting such prosecution ;
- (iv) the execution of sentences passed by such Commissioners ;
- (v) the temporary custody or release on bail of persons referred to or included in any order

order made under sub-section (1) of section 3, and for the transmission of records to the Commissioners ; and

(vi) any matter which appears to the Local Government to be necessary for carrying into effect the provisions of the Act relating or ancillary to trials before Commissioners.

Savings.

11. No order under this Act shall be called in question in any court, and 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.