



TO BE INTRODUCED IN LOK SABHA

**Bill No. 75 of 2008**

## THE NATIONAL INVESTIGATION AGENCY BILL, 2008

### ARRANGEMENT OF CLAUSES

#### CHAPTER I

##### PRELIMINARY

##### CLAUSES

1. Short title, extent and application.
2. Definitions.

#### CHAPTER II

##### NATIONAL INVESTIGATION AGENCY

3. Constitution of National Investigation Agency.
4. Superintendence of National Investigation Agency.
5. Manner of constitution of Agency and conditions of service of members.

#### CHAPTER III

##### INVESTIGATION BY THE NATIONAL INVESTIGATION AGENCY

6. Investigation of Scheduled Offences.
7. Power to transfer investigation to State Government.
8. Power to investigate connected offences.
9. State Government to extend assistance to National Investigation Agency.
10. Power of State Government to investigate Scheduled Offences.

#### CHAPTER IV

##### SPECIAL COURTS

11. Power of Central Government to Constitute Special Courts.
12. Place of sitting.
13. Jurisdiction of Special Courts.
14. Powers of Special Courts with respect to other offences.
15. Public Prosecutors.
16. Procedure and powers of Special Courts.
17. Protection of witnesses.
18. Trial by Special Court to have precedence.
19. Power to transfer cases to regular courts.
20. Appeals.
21. Power of State Government to constitute Special Courts.

(ii)

CHAPTER V

MISCELLANEOUS

CLAUSES

22. Power of High Courts to make rules.

23. Power to remove difficulties.

24. Power to make rules.

25. Laying of rules.

THE SCHEDULE.

**Bill No. 75 of 2008**

**THE NATIONAL INVESTIGATION AGENCY BILL, 2008**

A

BILL

*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 and for matters connected therewith or incidental thereto.*

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

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Investigation Agency Act, 2008.

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

(a) to citizens of India outside India;

(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.

Short title,  
extent and  
application.

Definitions.

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

(a) “Agency” means the National Investigation Agency constituted under section 3 ;

(b) “Code” means the Code of Criminal Procedure 1973;

2 of 1974.

(c) “High Court” means the High Court within whose jurisdiction the Special Court is situated;

(d) “prescribed” means prescribed by rules;

(e) “Public Prosecutor” means a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor appointed under section 15;

(f) “Schedule” means Schedule to this Act;

(g) “Scheduled Offence” means an offence specified in the Schedule;

(h) “Special Court” means a Special Court constituted under section 11 or, as the case may be, under section 21;

(i) words and expressions used but not defined in this Act and defined in the Code shall have the meanings respectively assigned to them in the Code.

(2) Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law or the relevant provision of the corresponding law, if any, in force in that area.

## CHAPTER II

### NATIONAL INVESTIGATION AGENCY

Constitution of National Investigation Agency.

3. (1) **Notwithstanding anything in the Police Act, 1861, the Central Government may constitute a special agency to be called the National Investigation Agency for investigation and prosecution of offences under the Acts specified in the Schedule.**

5 of 1861.

(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.**

(3) **Any officer of the Agency of or above the rank of Sub-Inspector may, subject to any orders which the Central Government may make in this behalf, exercise throughout India, any of the powers of the officer-in-charge of a police station in the area in which he is present for the time being and when so exercising such powers shall, subject to any such orders as aforesaid, be deemed to be an officer-in-charge of a police station discharging the functions of such an officer within the limits of his station.**

Superintendence of National Investigation Agency.

4. (1) The superintendence of the Agency shall vest in the Central Government.

(2) The administration of the Agency shall vest in an officer designated as the Director-General appointed in this behalf by the Central Government who shall exercise in respect of the Agency such of the powers exercisable by a Director-General of Police in respect of the police force in a State, as the Central Government may specify in this behalf.

Manner of constitution of Agency and conditions of service of members.

5. Subject to the provisions of this Act, the Agency shall be constituted in such manner as may be prescribed and the conditions of service of persons employed in the Agency shall be such as may be prescribed.

## CHAPTER III

## INVESTIGATION BY THE NATIONAL INVESTIGATION AGENCY

6. (1) On receipt of information and recording thereof under section 154 of the Code relating to any Scheduled Offence the officer-in-charge of the police station shall forward the report to the State Government forthwith.

Investigation of Scheduled Offences.

(2) On receipt of the report under sub-section (1), the State Government shall forward the report to the Central Government as expeditiously as possible.

(3) On receipt of report from the State Government, the Central Government shall determine on the basis of information made available by the State Government or received from other sources, within fifteen days from the date of receipt of the report, whether the offence is a Scheduled Offence or not and also whether, having regard to the gravity of the offence and other relevant factors, it is a fit case to be investigated by the Agency.

(4) Where the Central Government is of the opinion that the offence is a Scheduled Offence and it is a fit case to be investigated by the Agency, it shall direct the Agency to investigate the said offence.

(5) Notwithstanding anything contained in this section, if the Central Government is of the opinion that a Scheduled Offence has been committed which is required to be investigated under this Act, it may, *suo motu*, direct the Agency to investigate the said offence.

(6) Where any direction has been given under sub-section (4) or sub-section (5), the State Government and any police officer of the State Government investigating the offence shall not proceed with the investigation and shall forthwith transmit the relevant documents and records to the Agency.

(7) For the removal of doubts, it is hereby declared that till the Agency takes up the investigation of the case it shall be the duty of the officer-in-charge of the police station to continue the investigation.

7. While investigating any offence under this Act, the Agency, having regard to the gravity of the offence and other relevant factors, may—

Power to transfer investigation to State Government.

(a) if it is expedient to do so, request the State Government to associate itself with the investigation; or

(b) with the previous approval of the Central Government transfer the case to the State Government for investigation and trial of the offence.

8. While investigating any Scheduled Offence the Agency may also investigate any other offence which the accused is alleged to have committed if the offence is connected with the Scheduled Offence.

Power to investigate connected offences.

9. The State Government shall extend all assistance and co-operation to the Agency for investigation of the Scheduled Offences.

State Government to extend assistance to National Investigation Agency.

10. Save as otherwise provided in this Act, nothing contained in this Act shall affect the powers of the State Government to investigate and prosecute any Scheduled Offence or other offences under any law for the time being in force.

Power of State Government to investigate Scheduled Offences.

## CHAPTER IV

## SPECIAL COURTS

Power of  
Central  
Government  
to constitute  
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.

(2) Where any question arises as to the jurisdiction of any Special Court, it shall be referred to the Central Government whose decision in the matter shall be final.

(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.

Place of  
sitting.

**12.** A Special Court may, on its own motion, or on an application made by the Public Prosecutor and if it considers it expedient or desirable so to do, sit for any of its proceedings at any place other than its ordinary place of sitting.

Jurisdiction of  
Special  
Courts.

**13.** (1) Notwithstanding anything contained in the Code, every Scheduled Offence investigated by the Agency shall be tried only by the Special Court within whose local jurisdiction it was committed.

(2) If, having regard to the exigencies of the situation prevailing in a State if,—

(a) it is not possible to have a fair, impartial or speedy trial; or

(b) it is not feasible to have the trial without occasioning the breach of peace or grave risk to the safety of the accused, the witnesses, the Public Prosecutor or a judge of the Special Court or any of them; or

(c) it is not otherwise in the interests of justice,

the Supreme Court may transfer any case pending before a Special Court to any other Special Court within that State or in any other State and the High Court may transfer any case pending before a Special Court situated in that State to any other Special Court within the State.

(3) The Supreme Court or the High Court, as the case may be, may act under this section either on the application of the Central Government or a party interested and any such application shall be made by motion, which shall, except when the applicant is the Attorney-General for India, be supported by an affidavit or affirmation.

**14.(1)** When trying any offence, a Special Court may also try any other offence with which the accused may, under the Code, be charged at the same trial if the offence is connected with such other offence.

Powers of Special Courts with respect to other offences.

(2) If, in the course of any trial under this Act of any offence, it is found that the accused person has committed any other offence under this Act or under any other law, the Special Court may convict such person of such other offence and pass any sentence or award punishment authorised by this Act or, as the case may be, under such other law.

**15.(1)** The Central Government shall appoint a person to be the Public Prosecutor and may appoint one or more persons to be the Additional Public Prosecutor or Additional Public Prosecutors:

Public Prosecutors.

Provided that the Central Government may also appoint for any case or class or group of cases a Special Public Prosecutor.

(2) A person shall not be qualified to be appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section unless he has been in practice as an Advocate for not less than seven years or has held any post, for a period of not less than seven years, under the Union or a State, requiring special knowledge of law.

(3) Every person appointed as a Public Prosecutor or an Additional Public Prosecutor or a Special Public Prosecutor under this section shall be deemed to be a Public Prosecutor within the meaning of clause (u) of section 2 of the Code, and the provisions of the Code shall have effect accordingly.

**16. (1)** A Special Court may take cognizance of any offence, without the accused being committed to it for trial, upon receiving a complaint of facts that constitute such offence or upon a police report of such facts.

Procedure and powers of Special Courts.

(2) Where an offence triable by a Special Court is punishable with imprisonment for a term not exceeding three years or with fine or with both, the Special Court may, notwithstanding anything contained in sub-section (1) of section 260 or section 262 of the Code, try the offence in a summary way in accordance with the procedure prescribed in the Code and the provisions of sections 263 to 265 of the Code, shall so far as may be, apply to such trial:

Provided that when, in the course of a summary trial under this sub-section, it appears to the Special Court that the nature of the case is such that it is not desirable to try it in a summary way, the Special Court shall recall any witnesses who may have been examined and proceed to re-hear the case in the manner provided by the provisions of the Code for the trial of such offence and the said provisions shall apply to and in relation to a Special Court as they apply to and in relation to a Magistrate:

Provided further that in the case of any conviction in a summary trial under this section, it shall be lawful for a Special Court to pass a sentence of imprisonment for a term not exceeding one year and with fine which may extend to five lakh rupees.

(3) Subject to the other provisions of this Act, a Special Court shall, for the purpose of trial of any offence, have all the powers of a Court of Session and shall try such offence as if it were a Court of Session so far as may be in accordance with the procedure prescribed in the Code for the trial before a Court of Session.

(4) Subject to the other provisions of this Act, every case transferred to a Special Court under sub-section (2) of section 13 shall be dealt with as if such case had been transferred under section 406 of the Code to such Special Court.

(5) Notwithstanding anything contained in the Code, but subject to the provisions of section 299 of the Code, a Special Court may, if it thinks fit and for reasons to be recorded by it, proceed with the trial in the absence of the accused or his pleader and record the evidence of any witness, subject to the right of the accused to recall the witness for cross-examination.

Protection  
of witnesses.

**17.** (1) Notwithstanding anything contained in the Code, the proceedings under this Act may, for reasons to be recorded in writing, be held *in camera* if the Special Court so desires.

(2) On an application made by a witness in any proceeding before it or by the Public Prosecutor in relation to such witness or on its own motion, if the Special Court is satisfied that the life of such witness is in danger, it may, for reasons to be recorded in writing, take such measures as it deems fit for keeping the identity and address of such witness secret.

(3) In particular, and without prejudice to the generality of the provisions of sub-section (2), the measures which a Special Court may take under that sub-section may include—

(a) the holding of the proceedings at a place to be decided by the Special Court;

(b) the avoiding of the mention of the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to public;

(c) the issuing of any directions for securing that the identity and address of the witnesses are not disclosed;

(d) a decision that it is in the public interest to order that all or any of the proceedings pending before such a Court shall not be published in any manner.

(4) Any person who contravenes any decision or direction issued under sub-section (3) shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to one thousand rupees.

Trial by  
Special Court  
to have  
precedence.

**18.** The trial under this Act of any offence by a Special Court shall be held on day-to-day basis on all working days and have precedence over the trial of any other case against the accused in any other court (not being a Special Court) and shall be concluded in preference to the trial of such other case and accordingly the trial of such other case shall, if necessary, remain in abeyance.

Power to  
transfer cases  
to regular  
courts.

**19.** Where, after taking cognizance of any offence, a Special Court is of the opinion that the offence is not triable by it, it shall, notwithstanding that it has no jurisdiction to try such offence, transfer the case for the trial of such offence to any court having jurisdiction under the Code and the Court to which the case is transferred may proceed with the trial of the offence as if it had taken cognizance of the offence.

Appeals.

**20.** (1) Notwithstanding anything contained in the Code, an appeal shall lie from any judgment, sentence or order, not being an interlocutory order, of a Special Court to the High Court both on facts and on law.

(2) Every appeal under sub-section (1) shall be heard by a bench of two Judges of the High Court and shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.

(3) Except as aforesaid, no appeal or revision shall lie to any court from any judgment, sentence or order including an interlocutory order of a Special Court.

(4) Notwithstanding anything contained in sub-section (3) of section 378 of the Code, an appeal shall lie to the High Court against an order of the Special Court granting or refusing bail.

(5) Every appeal under this section shall be preferred within a period of thirty days from the date of the judgment, sentence or order appealed from:



Provided that the High 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:

Provided further that no appeal shall be entertained after the expiry of ninety days.

**21.** (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.

Power of State Government to constitute Special Courts.

(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.

## CHAPTER V

### MISCELLANEOUS

**22.** The High Court may, by notification in the Official Gazette, make such rules, as it may deem necessary for carrying out the provisions of this Act relating to Special Courts within its territory.

Power of High Courts to make rules.

**23.** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made, under this section after the expiration of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

**24.** (1) The Central Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality to the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of constitution of the Agency and the conditions of service of persons employed in the Agency under section 5;

(b) any other matter which is required to be, or may be, prescribed.

Laying of  
rules.

**25.** 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.

THE SCHEDULE

[See section 2(1)(f)]

1. The Atomic Energy Act 1962 (33 of 1962);
2. The Unlawful Activities (Prevention) Act, 1967 (37 of 1967);
3. The Anti-Hijacking Act, 1982 (65 of 1982);
4. The Suppression of Unlawful Acts Against Safety of Civil Aviation Act, 1982 (66 of 1982);
5. The SAARC Convention on (Suppression of Terrorism) Act 1993 (36 of 1993);
6. The Suppression of Unlawful Acts Against Safety of Maritime Navigation and Fixed Platforms on Continental Shelf Act 2002 (69 of 2002);
7. The Weapons of Mass Destruction and Their Delivery Systems (Prohibition of Unlawful Activities) Act, 2005 ( 21 of 2005);
8. Offences under—
  - (a) Chapter VI of the Indian Penal Code [sections 121 to 130 (both inclusive)];
  - (b) Sections 489-A to 489-E (both inclusive) of the Indian Penal Code.

## STATEMENT OF OBJECTS AND REASONS

Over the past several years, India has been the victim of large scale terrorism sponsored from across the borders. There have been innumerable incidents of terrorist attacks, not only in the militancy and insurgency affected areas and areas affected by Left Wing Extremism, but also in the form of terrorist attacks and bomb blasts, etc., in various parts of the hinterland and major cities, etc. A large number of such incidents are found to have complex inter-State and international linkages, and possible connection with other activities like the smuggling of arms and drugs, pushing in and circulation of fake Indian currency, infiltration from across the borders, etc. Keeping all these in view, it has for long been felt that there is need for setting up an Agency at the Central level for investigation of offences related to terrorism and certain other Acts, which have national ramifications. Several experts and Committees, including the Administrative Reforms Commission in its Report, have also made recommendations for establishing such an Agency.

The Government after due consideration and examination of the issues involved, proposes to enact a legislation to make provisions for establishment of a National Investigation Agency in a concurrent jurisdiction framework, with provisions for taking up specific cases under specific Acts for investigation, provisions for setting up of Special Courts and for other related matters. These provisions are proposed to be incorporated in the National Investigation Agency Bill, 2008.

The Bill seeks to achieve the objectives mentioned above.

NEW DELHI;

P. CHIDAMBARAM.

*The 15<sup>th</sup> December, 2008.*

*Notes on clauses*

*Clause 1* of the Bill proposes to make the legislation applicable to whole of India, citizens of India outside India, in service of the Government wherever they may be and persons on ships and aircrafts registered in India.

*Clause 2* seeks to provide the definitions of various terms used in the Act including the definition of the Agency, the Scheduled Offence and the Special Court.

*Clause 3* seeks to provide for the constitution of the National Investigation Agency for investigation and prosecution of offences specified in the Schedule under the Act. The officers of the Agency are to have all the powers, privileges and liabilities which the police officers have in connection with the investigation of any offence.

*Clause 4* seeks to provide that the superintendence of the National Investigation Agency shall vest in the Central Government and the administration to vest in the officer designated in this behalf by it.

*Clause 5* seeks to provide that the manner of constitution of Agency and the conditions of service of members shall be prescribed by the rules.

*Clause 6* seeks to provide the manner of investigation of the offences listed in the Schedule to this Act. The police officer in charge of the police station on receipt of the report of the offence shall forward it to the State Government which in turn to the Central Government. If the Central Government is of the opinion that the offence is a Scheduled Offence, it shall direct the agency for investigation of such offence.

*Clause 7* seeks to provide for the transfer of investigation and trial of offences to the State Government with the previous approval of the Central Government.

*Clause 8* seeks to provide that Agency may investigate other offences connected with the Scheduled Offence.

*Clause 9* seeks to provide that the State Government shall extend all assistance to the Agency for investigation of the Scheduled Offences.

*Clause 10* seeks to provide that the provisions of this Act with regard to investigation shall not affect the powers of the State Government to investigate and prosecute any Scheduled Offence or any other offences.

*Clause 11* seeks to provide that Central Government shall constitute Special Courts for the trial of Scheduled Offences. The Special Court is to be presided by a Judge of the level of Sessions Judge or Additional Sessions Judge, to be appointed by the Central Government on the recommendations of the Chief Justice of the High Court.

*Clause 12* seeks to provide that the Special Court may, if it considers expedient, sit at any place other than the ordinary place of sitting for any of its proceedings.

*Clause 13* seeks to provide for the jurisdiction of the Special Courts. The Special Courts shall try the offences committed within its local jurisdiction. For the purpose of having a fair or speedy trial or in the interest of justice, the Supreme Court may transfer any case pending with the Special Court to another Special Court in the same State or any other State and the High Court may transfer such cases to any other Special Court within the State.

*Clause 14* seeks to provide that the Special Court may try any other offence if the offence is connected with the Scheduled Offence tried by it, at the same trial.

*Clause 15* seeks to provide that the Public Prosecutor and Additional Public Prosecutor shall be appointed by the Central Government. The Special Public Prosecutor may also be appointed for any case or class or group of cases.

*Clause 16* seeks to provide for procedure to be adopted and powers to be exercised by the Special Court for trial of the Scheduled Offences. It seeks to provide that offences punishable with imprisonment for a term not exceeding three years or with fine or with both, may be tried summarily. The Special Court will have all the powers of the Court of Sessions under the Code of Criminal Procedure for the purpose of trial of any offence under this Act.

*Clause 17* seeks to provide that the proceedings under this Act shall be held *in camera* if the Special Court deems it necessary or on an application made by a witness or a Public Prosecutor.

*Clause 18* seeks to provide that the trial under this Act by the Special Court shall be held on day-to-day basis on all working days and to have precedence over the trial of other offences.

*Clause 19* seeks to provide that if the Special Court is of the opinion that it has no jurisdiction to try any offence, the cognizance of which has already been taken by it, such cases are to be transferred by the Special Court to any other court having jurisdiction under the Code.

*Clause 20* seeks to provide that the appeal from judgment sentence or order shall lie to the High Court both on facts and law within a period of thirty days from such judgment, sentence or order. The appeal shall be heard by a Bench of two judges of the High Court and shall, as far as possible to be disposed of within a period of three months.

*Clause 21* seeks to empower the State Government to constitute one or more Special Courts for the trial of offences under this Act. It seeks to provide that until the Special Court is constituted by the State Government, the jurisdiction under this Act shall be exercised by the Court of Session within whose jurisdiction the offence has been committed.

*Clause 22* seeks to empower the High Court to make rules for carrying out the provisions of this Act relating to the Special Courts falling within its jurisdiction.

*Clause 23* seeks to provide that the Central Government may remove any difficulty arising out in giving effect to the provisions of this Act by an order, but such an order is not to be made after the expiration of two years from the commencement of this Act.

*Clause 24* seeks to empower the Central Government to make rules for carrying out the provisions of this Act.

*Clause 25* seeks to provide that every rule made by the Central Government under this Act shall be laid before each House of Parliament.

## FINANCIAL MEMORANDUM

Clause 3 of the National Investigation Agency Bill, 2008 provides for the constitution of a special agency called the National Investigation Agency for investigation and prosecution of offences under the enactments in the Schedule. Structure of the organisation, as well as other details are being worked out. Funds for the Agency will be met out of the Demands for Grants of the Ministry of Home Affairs. It is difficult to estimate the exact amount of expenditure that shall be required in setting up the agency. Looking to the remaining period of the financial year, it is estimated that approximately Rs. 2 crores will be required in the initial stages as non-recurring expenditure and Rs. 3 crores recurring expenditure is estimated. Further Central Government will also have to appoint Special Court under section 11 of the proposed Bill and Public Prosecutors under section 15 of the proposed Bill. An estimate of Rs. 1 crore towards Special Courts and Rs. 50 lakhs towards appointment of Public Prosecutors shall be required in the remaining part of the current financial year. However, if additional funding is required, this will be provided through savings or additionality in the next batch of supplementary grants.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill confers power upon the Central Government to prescribe rules to provide the manner in which the National Investigation Agency is to be constituted and the conditions of the service of the person employed in the Agency.

2. Clause 23 of the Bill confers power on the High Court to make rules relating to the Special Courts falling within its jurisdiction for the purposes of this Act.

3. Clause 24 of the Bill confers power on the Central Government to make rules for carrying out the provisions of this Act.

4. The rules made by the Central Government are required to be laid before each House of the Parliament.

5. The matters in respect of which the rules are to be made by the Central Government and High Court are matters of administrative details and it is not possible to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.



LOK SABHA

---

A

**BILL**

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 and for matters connected therewith or incidental thereto.

---

*(Shri P. Chidambaram, Minister of Home Affairs)*