

SPECIAL COURT

(Sections 435 to 438)

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Establishment of Special Court- The Central Government establish or designate by notification as many Special Courts as may be necessary. (S. 435 (1))

Purpose of Special Court- The purpose special Court is providing speedy trial of offences punishable under this Act with imprisonment of two years or more. (S. 435 (1))

Composition of Special Court- A Special Court shall consist of **a single judge** who shall be appointed by the Central Government with the concurrence of the Chief Justice of the High Court within whose jurisdiction the judge to be appointed is working. (S. 435 (2))

Qualification of Special Court Judge- A person who is, immediately before such appointment holding office of a Sessions Judge or an Additional Sessions Judge. (S. 435 (3))

Offences triable by Special Court- As per the provisions of S. 436 of the Companies Act, 2013, the offences shall be triable by the Special Court: a) all offences for which the S. 435 (1) of the Companies Act, 2013, provides for imprisonment of 2 years or more; b) such cases which is sent by a Magistrate where he believes that period of detention is unessential for a person accused of, or suspected of the commission of, an offence under the Act, is forwarded to a Magistrate under sub-section (2) or sub-section (2A) of section 167 of the Code of Criminal Procedure, 1973 such Magistrate may authorized the detain of such person by Judicial Magistrate for a period of not more than 15 days or 7 days by Executive Magistrate, as the case may be. In such cases, the Special Court has the same force as the Magistrate having ward to attempt such case; C) take cognizance of an offence under the Companies Act, 2013, without the accused being committed to it for trial upon: (a) perusal of the police report of the facts constituting such offence, or (b) if a complaint has been filed in that behalf; try at the same trial an offence for which an accused may be charged under the Code of Criminal Procedure, 1973 in addition to an offence under the Companies Act, 2013.

Jurisdiction of Special Court- The jurisdiction of the Special Court has been provided under S. 436 (1) of the Companies Act, 2013 that notwithstanding anything contained in the Code of Criminal Procedure, 1973 the all above offences shall be triable only by Special Courts,

established for the area in which the registered office of the company in relation to which the offence is committed. In case there are more than one Special Courts for such area offences shall be triable by one of them as may be specified in this behalf by the High Court concerned. 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 of Criminal Procedure, 1973 (2 of 1974) be charged at the same trial. (S. 436 (2))

Summary Trial by Special Court-Any offence under this Act which is punishable with imprisonment for a term not exceeding three years, the Special Court may try a summary trial, if it thinks fit, whether notwithstanding anything contained in the Code of Criminal Procedure, 1973. But in the case of any conviction in a summary trial, no sentence of imprisonment for a term exceeding one year shall be passed. During the summary trial, it appears to the Special Court that the nature of the case is such that the sentence of imprisonment for a term exceeding one year may have to be passed or that it is, for any other reason, undesirable to try the case summarily, the Special Court shall, after hearing the parties, record an order to that effect and thereafter recall any witnesses who may have been examined and proceed to hear or rehear the case in accordance with the procedure for the regular trial. (S. 436 (3))

Appeal and Revision From Special Court to High Court- If a Special Court within the local limits of the jurisdiction of the High Court is a Court of Session trying cases within the local limits of the jurisdiction of the High Court, the High Court may exercise, so far as may be applicable, all the powers conferred by Chapters XXIX and XXX of the Code of Criminal Procedure, 1973. (S. 437)

Application of Code to Proceedings-The Special Court shall be deemed to be a Court of Session and the person conducting a prosecution before a Special Court shall be deemed to be a Public Prosecutor. The provisions of the Code of Criminal Procedure, 1973 shall apply to the proceedings before a Special Court and for the purposes of the said provisions. (S. 438)
