

## THE PREVENTION OF CORRUPTION ACT, 1947

ACT NO. II OF 1947

[11<sup>th</sup> March, 1947]

### An Act for the more effective prevention of bribery and corruption.\*

WHEREAS it is expedient to make more effective provision for the prevention of bribery and corruption;

It is hereby enacted as follows:-

Short title and extent

**1.** (1) This Act may be called the Prevention of Corruption Act, 1947.

(2) It extends to the whole of Bangladesh and applies to all citizens of Bangladesh and persons in the service of <sup>1</sup>[the Republic] wherever they may be.

Interpretation

**2.** For the purposes of this Act, “public servant” means a public servant as defined in section 21 of the Penal Code and includes an employee of any corporation or other body or organisation set by the Government and includes a Chairman, Vice-Chairman, Member, Officer or other employee of a local <sup>2</sup>[authority], or a Chairman, Director, Managing Director, Trustee, Member, Officer or other employee of any corporation, or other body or organisation constituted or established under any law.

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\* Throughout this Act, the words “Bangladesh”, “Government” and “Penal Code” were substituted for the words “Pakistan”, “Central Government” and “Pakistan Penal Code” respectively by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>1</sup> The words “the Republic” were substituted for the word “Government” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

<sup>2</sup> The word “authority” was substituted for the words, commas and figures “council as defined in the Basic Democracies Order, 1959, or of a Municipal Committee” by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

3. An offence punishable under section 161, 162, 163, 164, 165 or 165-A of the Penal Code shall be deemed to be a cognizable offence for the purposes of the Code of Criminal Procedure, 1898, notwithstanding anything to the contrary contained therein.

Offences under sections 161 and 165 of the Penal Code to be cognizable offences

4. (1) Where in any trial of an offence punishable under section 161 or section 165 of the Penal Code, it is proved that an accused person has accepted or obtained, or has agreed to accept or attempted to obtain, for himself or for any other person, any gratification (other than legal remuneration) or any valuable thing from any person, it shall be presumed unless the contrary is proved that he accepted or obtained, or agreed to accept or attempted to obtain, that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in the said section 161, or, as the case may be, without consideration or for a consideration which he knows to be inadequate.

Presumption where public servant accepts gratification other than legal remuneration

(2) Where in any trial of an offence punishable under section 165A of the Penal Code it is proved that any gratification (other than legal remuneration) or any valuable thing has been given or offered to be given or attempted to be given by any accused person, it shall be presumed, unless the contrary is proved, that he gave or offered to give or attempted to give that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in section 161 of the said Code, or, as the case may be, without consideration or for a consideration which he knew to be inadequate.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Court may decline to draw the presumption referred to in either of the said sub-sections if the gratification or thing aforesaid is, in its opinion, so trivial that no inference of corruption may fairly be drawn.

5. (1) A public servant is said to commit the offence of criminal misconduct-

Criminal misconduct

- (a) if he accepts or obtains or agrees to accept or attempts to obtain from any person for himself or for any other person, any gratification (other than legal remuneration) as a motive or reward such as is mentioned in section 161 of the Penal Code, or

- (b) if he accepts or obtains or agrees to accept or attempts to obtain for himself or for any other person any valuable thing without consideration or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, or
- (c) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or under his control as a public servant or allows any other person so to do, or
- (d) if he, by corrupt or illegal means or by otherwise abusing his position as public servant, obtains or attempts to obtain for himself or for any other person any valuable thing or pecuniary advantage, or
- (e) if he, or any of his dependents, is in possession, for which the public servant cannot reasonably account, of pecuniary resources or of property disproportionate to his known sources of income.

**Explanation.-** In this clause “dependent” in relation to a public servant, means his wife, children and step-children, parents, sisters and minor brothers residing with and wholly dependent on him.

(2) Any public servant who commits or attempts to commit criminal misconduct shall be punishable with imprisonment for a term which may extend to seven years, or with fine, or <sup>1</sup>[with both, and the pecuniary resources or property to which the criminal misconduct relates may also be confiscated to the State].

(3) In any trial of an offence punishable under sub-section (2) the fact that the accused person or any other person on his behalf is in possession, for which the accused person cannot satisfactorily account, of pecuniary resources or property

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<sup>1</sup> The words and comma “with both, and the pecuniary resources or property to which the criminal misconduct relates may also be confiscated to the State” were substituted for the words “with both” by section 2 of the Prevention of Corruption (Amendment) Act, 1992 (Act No. VIII of 1992).

disproportionate to his known sources of income may be proved, and on such proof the Court shall presume, unless the contrary is proved, that the accused person is guilty of criminal misconduct and his conviction therefore shall not be invalid by reason only that it is based solely on such presumption.

(4) The provisions of this section shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt any public servant from any proceeding which might, apart from this section, be instituted against him.

<sup>1</sup>[5A. Notwithstanding anything contained in the Code of Criminal Procedure, 1898 no officer below the rank of Inspector of Police shall investigate any offence punishable under any of the sections of the Penal Code mentioned in section 3 or any offence punishable under section 5 without an order of a Magistrate of the first class or make any arrest therefore without a warrant.]

6. [*Previous sanction necessary for prosecution.- Omitted by section 5 of the Criminal Law Amendment Act, 1953 (Act No. XXXVII of 1953).*]

7. Any person charged with an offence punishable under section 161 or section 165 of the Penal Code or under subsection (2) of section 5 of this Act shall be a competent witness for the defence and may give evidence on oath in disproof of the charges made against him or any person charged together with him at the same trial:

Accused person  
to be competent  
witness

Provided that -

- (a) he shall not be called as a witness except on his own request,
- (b) his failure to give evidence shall not be made the subject of any comment by the prosecution or give rise to any presumption against himself or any person charged together with him at the same trial,

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<sup>1</sup> Section 5A was inserted by section 5 of the Criminal Law Amendment Act, 1953 (Act No. XXXVII of 1953).

- (c) he shall not be asked, and if asked shall not be required to answer, any question tending to show that he has committed or been convicted of any offence other than the offence with which he is charged, or is of bad character, unless-
- (i) the proof that he has committed or been convicted of such offence is admissible evidence to show that he is guilty of the offence with which he is charged, or
  - (ii) he has personally or by his pleader asked questions of any witness for the prosecution with a view to establish his own good character, or has given evidence of his good character, or the nature or conduct of the defence is such as to involve imputations on the character of the prosecutor or of any witness for the prosecution, or
  - (iii) he has given evidence against any other person charged with the same offence.
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