



BRIBERY (AMENDMENT) LAW,

No. 38 OF 1974

OF

THE NATIONAL STATE ASSEMBLY

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Bribery (Amendment) Law, No. 38 of 1974

L. D.—O. 30/72.

A LAW TO AMEND THE BRIBERY ACT

BE it enacted by the National State Assembly of the Republic of Sri Lanka as follows :—

1. This Law may be cited as the Bribery (Amendment) Law, No. 38 of 1974.

Short
title.

2. Section 4 of the Bribery Act, hereinafter referred to as the "principal enactment", is hereby amended by the addition, immediately after subsection (4) of that section, of the following new subsections :—

Amendment
of section 4 of
Chapter 26.

" (5) Notwithstanding anything to the contrary in any written law, a certified copy of any sworn statement or of any document obtained by the Bribery Commissioner under subsection (1) shall be admissible in evidence for the purpose of any prosecution under this Act and the production of any such certified copy shall be sufficient proof of the fact of its execution and of the contents thereof.

(6) If in the course of a trial for an offence under this Act the presiding Judge or either party to the case is of opinion that any witness should be summoned to establish the execution or the contents of any document or a certified copy thereof which has been produced or furnished under paragraph (e) of subsection (1), such witness shall be so summoned by the court to give evidence in the same manner as any other witness for the prosecution."

3. Section 6 of the principal enactment is hereby amended by the repeal of subsection (2) of that section and the substitution therefor of the following new subsection :—

Amendment
of section
6 of the
principal
enactment.

" (2) Section 250 and section 238 (2) of the Administration of Justice Law, No. 44 of 1973, shall not apply to the proceedings referred to in subsection (1)."

Replacement of section 7 of the principal enactment.

4. Section 7 of the principal enactment is hereby repealed and the following new section substituted therefor :—

“ Search of place, premises, &c, upon a search warrant.

7. The Bribery Commissioner or any person authorized by him or acting under his control under section 3 may, either in the course of any investigation under this Act or for any of the purposes of this Act, after obtaining a search warrant from a Magistrate, enter upon and search any place, building, house or other premises specified in such warrant, and may take into his custody any book, document or thing deemed necessary for the purposes of the investigation, or enter upon or inspect such premises for the purpose of valuation of such premises or any property thereon ; and the provisions of sections 95 to 99 (both inclusive) of the Administration of Justice Law, No. 44 of 1973, shall *mutatis mutandis* apply in relation to any such search warrant.”

Amendment of section 8 of the principal enactment.

5. Section 8 of the principal enactment is hereby amended as follows :—

- (1) by the renumbering of that section as subsection (1) of that section ; and
- (2) by the addition, immediately after the renumbered subsection (1) of that section, of the following new subsection :—

“ (2) Notwithstanding the provisions of any other written law to the contrary, any District Court shall have jurisdiction to try an indictment for bribery in respect of an offence under section 23A of this Act.”

Amendment of section 9 of the principal enactment.

6. Section 9 of the principal enactment is hereby amended by the repeal of subsection (1) of that section and the substitution therefor of the following new subsection :—

“ (1) An indictment prepared in the manner prescribed by section 178 of the Administration

of Justice Law, No. 44 of 1973, shall be transmitted by the Attorney-General to any District Court for trial. He shall at the same time transmit to the court of trial a copy or copies of the indictment for service on the accused person or each of the accused persons who will be tried upon the indictment. The Judge of the Court of trial shall forthwith and at least fourteen days before the day specified for trial serve or cause to be served on the accused person or each of the accused persons, the copy or a copy of the indictment received by him from the Attorney-General.”

7. Section 10 of the principal enactment, as amended by Act No. 40 of 1958, is hereby further amended as follows :—

Amendment of section 10 of the principal enactment.

(1) by the repeal of subsection (3) of that section and the substitution therefor of the following new subsection :—

“(3) If in the course of a trial for an offence under this Act any witness shall on any material point contradict either expressly or by necessary implication the statement previously given by him in the course of any investigation into such offence under this Act, it shall be lawful for the presiding Judge if he considers it safe and just in all the circumstances—

(a) to act upon the statement given by the witness in the course of the investigation if such statement is corroborated in material particulars by evidence from an independent source ; and

(b) to have such witness at the conclusion of such trial arraigned and tried on an indictment which shall be prepared and signed by the Registrar of such court, for intentionally giving false evidence in a stage of a judicial proceeding.” ; and

(2) by the insertion, immediately after subsection (3) of that section, of the following new subsections :—

“(4) At any trial under paragraph (b) of subsection (3) it shall be sufficient to prove that the accused made the contradictory

statements alleged in the indictment and it shall not be necessary to prove which of such statements is false.

(5) The presiding Judge may, if he considers it expedient, adjourn the trial of any witness under paragraph (b) of subsection (3) for such period as he may think fit and in any such case the accused shall be remanded until the conclusion of such trial."

Amendment
of section
19 of the
principal
enactment.

8. Section 19 of the principal enactment, as amended by Act No. 40 of 1958 and Act No. 2 of 1965, is hereby further amended as follows :—

(1) by the substitution, for paragraph (c) of that section, of the following paragraph :—

"(c) who, being a state officer, solicits or accepts any gratification," ;

(2) by the substitution, for the full stop at the end of that section, of a colon ; and

(3) by the addition, at the end of that section, of the following proviso :—

" Provided, however, that it shall not be an offence for a state officer to solicit or accept any gratification which he is authorized by law or the terms of his employment to receive. "

Amendment
of section
23A of the
principal
enactment.

9. Section 23A of the principal enactment (inserted therein by Act No. 40 of 1958) is hereby amended by the addition, at the end of that section, of the following new subsections :—

(5) For the purposes of this section, where a spouse or unmarried child under the age of eighteen years of a person has or had acquired any property movable or immovable on or after March 1, 1954, it shall be presumed until the contrary is proved that such property was acquired by such person aforesaid and not by such spouse or unmarried child, as the case may be.

(6) In any prosecution for an offence under this section a certificate from the Chief Valuer with regard to the value of any immovable property shall be sufficient proof of such value unless and until the contrary is proved.

In this subsection, " Chief Valuer " means the Chief Valuer of the Government, and includes any Senior Assistant Valuer, or Assistant Valuer, of the Government Valuation Department.'

10. Section 25 of the principal enactment is hereby amended by the addition, at the end of that section, of the following new subsection :—

Amendment of section 25 of the principal enactment.

(3) A person who conspires with any other person to commit an offence under this Part of this Act shall be guilty of an offence and shall be tried in the same manner and shall upon conviction be liable to the same punishment as is prescribed by this Act for the first-mentioned offence. In this subsection, the expression " conspire " shall have the same meaning as in section 113A of the Penal Code.'

11. The following new section is hereby inserted immediately after section 26, and shall have effect as section 26A, of the principal enactment :—

Insertion of new section 26A in the principal enactment.

" Additional fine to be imposed.

26A. Where the District Court convicts any person of an offence under section 23A, it shall, in addition to any other penalty that it is required to impose under this Act, impose a fine of not less than the amount which such court has found to have been acquired by bribery or by the proceeds of bribery or converted to property by bribery, or by the proceeds of bribery and not more than three times such amount."

12. The following new section is hereby inserted immediately after section 30, and shall have effect as section 30A, of the principal enactment :—

Insertion of new section 30A in the principal enactment.

" Procedure on detection of person receiving illegal gratification.

30A. (1) Where any officer, authorized by the Bribery Commissioner in that behalf under section 3, detects any person accepting, soliciting or offering an illegal gratification, such officer shall—

(a) without unnecessary delay take such person before any Magistrate who may admit such person to bail ; or

(b) produce such person before any Magistrate with a certificate under the hand of the Bribery Commissioner that such person has been detected accepting, soliciting or offering an illegal gratification.

(2) Where a person is produced before any Magistrate under paragraph (b) of subsection (1), the Magistrate shall remand such person until the conclusion of the trial and such person shall not be admitted to bail except with the sanction in writing of the Attorney-General.

(3) Notwithstanding the provisions of subsection (2), in any proceeding under paragraph (a) or paragraph (b) of subsection (1), where the Attorney-General informs the Magistrate that he does not propose to institute proceedings against the person in custody, such person shall be discharged forthwith."

Amendment of section 78 of the principal enactment.

13. Section 78 of the principal enactment is hereby amended by the repeal of subsections (4) and (5) of that section.

Insertion of new section 89A in the principal enactment.

14. The following new section is hereby inserted immediately after section 89, and shall have effect as section 89A, of the principal enactment :—

" State officer soliciting or accepting gratification outside Sri Lanka.

89A. A state officer who solicits or accepts a gratification which is an offence under this Act shall, if such solicitation or acceptance was made outside Sri Lanka, be deemed to have committed such offence within Sri Lanka, and accordingly the District Court of Colombo shall have jurisdiction to try such offence notwithstanding anything in any other law to the contrary."