



PARLIAMENT OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA

BRIBERY (AMENDMENT)
ACT, No. 9 OF 1980

[Certified on 25th January, 1980]

Printed on the Orders of Government

Published as a Supplement to Part II of the **Gazette of the Democratic Socialist Republic of Sri Lanka** of February 01, 1980

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA

TO BE PURCHASED AT THE GOVT. PUBLICATIONS BUREAU, COLOMBO

Price: 90 cents

Postage: 25 cents

[Certified on 25th January, 1980]

L.D.—O. 53/76

AN ACT TO AMEND THE BRIBERY ACT.

BE it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

1. This Act may be cited as the Bribery (Amendment) Act, No. 9 of 1980. Short title.

2. Section 4 of the Bribery Act (hereinafter referred to as the "principal enactment") as amended by Act No. 40 of 1958, Act No. 2 of 1965 and Law No. 38 of 1974 is hereby further amended by the substitution, for subsection (1) of that section, of the following new subsection:— Amendment of section 4 of Chapter 26.

" (1) The Bribery Commissioner may from time to time in the course of an investigation of an allegation of bribery against any person or after the commencement of a prosecution of any person for bribery notwithstanding anything in any other written law to the contrary by written notice—

(a) require such person to furnish a sworn statement in writing—

(i) enumerating all movable or immovable property owned or possessed at any time, or at such time as may be specified by the Bribery Commissioner, by such person and by the spouse, sons and daughters of such person and specifying the date on which each of the properties enumerated was acquired whether by way of purchase, gift, bequest, inheritance or otherwise ;

(ii) containing particulars of such other matters which in the opinion of the Bribery Commissioner are relevant to the investigation ;

(b) require any other person to furnish a sworn statement in writing—

(i) enumerating all movable or immovable property owned or possessed at any time or at such time as may be specified by the Bribery

Commissioner by such person where the Bribery Commissioner has reasonable grounds to believe that such information can assist the investigation ;

(ii) containing particulars of such other matters which in the opinion of the Bribery Commissioner are relevant in the investigation ;

(c) require the manager of any bank in Sri Lanka to produce, within such time as may be specified in the notice, any book, document or cheque of the bank containing entries relating to the account of such person or of the spouse or a son or daughter of such person, or to furnish as so specified, certified copies of such entries ;

(d) require the Commissioner-General of Inland Revenue to furnish, as specified in the notice, all information available to such Commissioner-General relating to the affairs of such person or of the spouse or a son or daughter of such person and to produce or furnish, as specified in the notice any document or a certified copy of any document relating to such person, spouse, son or daughter which is in the possession or under the control of such Commissioner-General ; and

(e) require the person in charge of any department, office or establishment of the Government, or the Mayor, Chairman, Governor, or chief executive officer of any local authority or scheduled institution, or of the governing body of any scheduled institution, to produce or furnish, as specified in the notice, any document or a certified copy of any document which is in his possession or under his control.”.

Replacement
of section 5
of the
principal
enactment.

3. Section 5 of the principal enactment as amended by Act No. 2 of 1965 is hereby repealed and the following new section substituted therefor :—

“Indictment
before High
Court.

5. If the Bribery Commissioner, after the investigation of an allegation of bribery against any person, is satisfied that there is a

prima facie case of the commission by that person of an offence specified in Part II of this Act, such Commissioner shall transmit a copy of the record of the investigation certified under his hand to the Attorney-General who may indict such person before the High Court :

Provided however, that where the offence consists of soliciting, accepting or offering any gratification which or the value of which does not exceed two hundred rupees, the Bribery Commissioner may having regard to the nature of the offence and other circumstances prosecute such person before the Magistrate's Court and accordingly the Magistrate's Court shall have jurisdiction to hear and determine any such proceedings instituted by the Bribery Commissioner."

4. Section 6 of the principal enactment as amended by Act No. 2 of 1965 and Law No. 38 of 1974 is hereby repealed and the following new section substituted therefor:—

Replacement of section 6 of the principal enactment.

"Application of the Code of Criminal Procedure Act.

6. (1) Such of the provisions of the Code of Criminal Procedure Act, No. 15 of 1979, as are not excluded by subsection (2) or are not inconsistent with the provisions of this Act shall apply to proceedings instituted in a court for offences under this Act.

(2) Section 306 of the Code of Criminal Procedure Act, No. 15 of 1979, shall not apply to proceedings in the Magistrate's Court for offences under this Act."

5. Section 7 of the principal enactment as amended by Law No. 38 of 1974 is hereby amended by the substitution for the words "sections 95 to 99 (both inclusive) of the Administration of Justice Law, No. 44 of 1973," of the words "sections 68 to 76 (both inclusive) of the Code of Criminal Procedure Act, No. 15 of 1979,".

Amendment of section 7 of the principal enactment.

Replacement of section 8 of the principal enactment.

6. Section 8 of the principal enactment as amended by Act No. 2 of 1965 and Law No. 38 of 1974 is hereby repealed and the following new section substituted therefor :—

“ Jurisdiction to try an indictment for bribery in respect of an offence under section 23A.

8. Notwithstanding the provisions of any other written law to the contrary, the High Court holden in any judicial zone shall have jurisdiction to try an indictment for bribery in respect of an offence under section 23A of this Act.”

Repeal of section 9 of the principal enactment.

7. Section 9 of the principal enactment amended by Law, No. 38 of 1974 is hereby repealed.

Amendment of section 10 of the principal enactment.

8. Section 10 of the principal enactment as amended by Act No. 40 of 1958, Act No. 2 of 1965, Law No. 38 of 1974 and Law No. 11 of 1976 is hereby further amended in subsection (3) of that section by the substitution for paragraph (b) thereof, of the following new paragraph :—

“ (b) to have such witness at the conclusion of such trial tried before such court upon a charge, or if such court is the High Court, arraigned and tried on an indictment which shall be prepared and signed by the Registrar of such High Court, for intentionally giving false evidence in a stage of a judicial proceeding.”

Amendment of section 11 of the principal enactment.

9. Section 11 of the principal enactment as amended by Act No. 2 of 1965 is hereby further amended as follows :—

(i) by the substitution, for the words “indicted before a District Court for bribery” of the words “for an offence under this Act,”; and

(ii) by the substitution, for the word “indictment”, of the words “list of witnesses or productions”.

10. Section 12 of the principal enactment as amended by Act No. 40 of 1958 and Act No. 2 of 1965 is hereby further amended as follows:—

Amendment
of section 12
of the
principal
enactment.

(i) by the substitution, for the expression "Criminal Procedure Code", of the expression "Code of Criminal Procedure Act, No. 15 of 1979"; and

(ii) by the substitution, for the expression "a District Court", of the expression "a Court".

11. Section 19 of the principal enactment as amended by Act No. 40 of 1958, Act No. 2 of 1965 and Law No. 38 of 1974 is hereby further amended as follows:—

Amendment
of section 19
of the
principal
enactment.

(i) by the substitution, for the expression "state officer" wherever that expression occurs in that section, of the expression "public servant"; and

(ii) by the addition at the end of the proviso of the following new proviso:—

"Provided further that section 35 of the Medical Ordinance shall not entitle a medical practitioner who is a public servant to solicit or accept any gratification."

12. Section 23A of the principal enactment (inserted by Act No. 40 of 1958) as amended by Act No. 2 of 1965 and Law No. 38 of 1974 is hereby further amended as follows:—

Amendment
of section
23A of the
principal
enactment.

(i) by the repeal of subsection (6) of that section and the substitution therefor of the following subsection:—

'(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 or the cost of construction of any building on such property shall be sufficient proof of such value and cost of construction 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.'; and

(ii) by the insertion, immediately after subsection (6) of that section, of the following new subsection:—

(7) For the purpose of this section "a person" shall mean any person whomsoever, whether or not such person can be shown to have been concerned with any act referred to in section 18 or section 20 or whether or not he is a public servant within the meaning of this Act.'

Amendment
of section 26
of the
principal
enactment.

13. Section 26 of the principal enactment as amended by Act No. 2 of 1965 is hereby further amended by the substitution, for the expression "a District Court", of the expression "a Court".

Amendment
of section
26A of the
principal
enactment.

14. Section 26A of the principal enactment (inserted by Law No. 38 of 1974) is hereby amended by the substitution, for the expression "District Court", of the expression "High Court".

Amendment
of section
27 of the
principal
enactment.

15. Section 27 of the principal enactment as amended by Act No. 40 of 1958 and Act No. 2 of 1965 is hereby further amended in subsection (1) of that section as follows:—

(i) by the substitution, for the expression "a District Court" of the expression "a Court"; and

(ii) by the substitution, for the expression "the District Judge", of the expression "the presiding Judge or Magistrate".

Amendment
of section
28 of the
principal
enactment.

16. Section 28 of the principal enactment as amended by Act No. 2 of 1965 is hereby further amended as follows:—

(i) in subsection (1) of that section by the substitution for the expression "a District Court", of the expression "a Court"; and by the substitution for the expression "that Court", of the expression "the District Court"; and

(ii) in the marginal note thereto, by the substitution, for the expression "District Court", of the expression "a Court."

Amendment
of section
29 of the
principal
enactment.

17. Section 29 of the principal enactment as amended by Act No. 40 of 1958 and Act No. 2 of 1965 is hereby further amended by the substitution, for the expression "a District Court", of the expression "a Court".

18. Section 30 of the principal enactment is hereby amended by the substitution, for the expression "Criminal Procedure Code", of the expression "Code of Criminal Procedure Act, No. 15 of 1979".

Amendment of section 30 of the principal enactment.

19. Section 31 of the principal enactment as amended by Act No. 2 of 1965 is hereby repealed.

Repeal of section 31 of the principal enactment.

20. Section 39 of the principal enactment as amended by Act No. 2 of 1965 is hereby further amended as follows:—

Amendment of section 39 of the principal enactment.

(a) in subsection (2) of that section by the substitution—

(i) for the words "such District Court as he may determine for an order," of the words "the High Court for an order,"; and

(ii) for the expression "that District Court shall upon application", of the expression "the High Court shall upon application"; and

(iii) for the expression "as if the order were a decree entered by that District Court" of the expression "as if the order were a decree entered by a District Court".

(b) in subsection (3) of that section by the substitution, for the expression "a District Court", of the expression "the High Court"; and

(c) in subsection (4) of that section by the substitution, for the expression "a District Court", of the expression "the High Court";

21. Section 70 of the principal enactment as amended by Act No. 40 of 1958 is hereby repealed and the following section substituted therefor:—

Replacement of section 70 of the principal enactment.

*Wilful neglect to carry out direction of, or obstruction of, investigating officer, &c.

70. A person who—

(a) wilfully neglects or omits to carry out any direction given to him under subsection (2) of section 3 by the Bribery Commissioner or by any officer empowered by that section to direct and conduct an investigation, or

(b) gives a false answer when questioned under that subsection, or

(c) makes a false statement in an affidavit submitted by him in compliance with a direction under that subsection,

shall be guilty of an offence and shall upon summary trial and conviction by a Magistrate be liable to a fine of not less than one hundred rupees and not more than five hundred rupees, or to imprisonment of either description for a term not exceeding six months or to both such fine and imprisonment.”.

Replacement
of section 71
of the
principal
enactment.

22. Section 71 of the principal enactment as amended by Act No. 40 of 1958 and Act No. 2 of 1965 is hereby repealed and the following section substituted therefor:—

“Failure to
furnish
information.

71. Notwithstanding the provisions of any other written law or any oath of secrecy to the contrary, every person to whom a notice is sent by the Bribery Commissioner under subsection (1) of section 4 or by a commission of inquiry under subsection (1) of section 34 shall comply with the provisions of that notice within such time as may be specified therein, and, if he wilfully neglects or omits to do so, he shall be guilty of an offence and shall, on conviction before a Magistrate, be liable—

(a) to a fine of not less than one hundred rupees and not more than five hundred rupees or to imprisonment of either description for a period not exceeding six months or to both such fine and imprisonment; and

(b) to a fine of not less than one hundred rupees for every day during which the offence is continued after the date on which he is required to furnish the sworn statement.”.

Replacement
of section 73
of the
principal
enactment.

23. Section 73 of the principal enactment as amended by Act No. 2 of 1965 is hereby repealed and the following section substituted therefor:—

Interference
with
witnesses &c.

73. (1) A person who—

- (a) interferes with any witness summoned in any proceedings for bribery in or before a court or commission of inquiry or any person whose statement has been recorded by the Bribery Commissioner in the course of an investigation, or
- (b) induces any such witness or any such person to refrain from giving evidence, or
- (c) threatens any such witness or any such person with injury to his body, mind or reputation in order to deter him from giving evidence, or
- (d) injures any such witness or any such person in body, mind or reputation in order to deter him from giving evidence, or
- (e) compels any such witness or such person not to give evidence,

shall be guilty of an offence and shall, upon summary trial and conviction by a Magistrate, be liable to rigorous imprisonment for a term not exceeding twelve months and to a fine.

(2) Every court before which any person surrenders himself or is produced on arrest on an allegation that he has committed or has been concerned in committing or is suspected of having committed or to have been concerned in committing an offence under this section shall keep such person on remand until the conclusion of the trial except in exceptional circumstances where the court before which he surrenders himself or is produced may after recording its reasons therefor release him on bail.”

24. Section 78 of the principal enactment as amended by Law No. 38 of 1974 is hereby further amended as follows:—

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

“(1) No Magistrate’s Court shall entertain any prosecution for an offence under this Act except

Amendment of
section 78 of
the principal
enactment.

by or with the written sanction of the Bribery Commissioner or an officer authorized by him in that behalf.”; and

- (ii) in subsection (2) of that section by the substitution, for the expression “a District Court”, of the expression “a Court”.

Amendment of section 79 of the principal enactment.

25. Section 79 of the principal enactment as amended by Act No. 2 of 1965 is hereby further amended in subsection (1) of that section by the substitution, for the expression “a District Court”, of the expression “a Court”.

Amendment of section 81 of the principal enactment.

26. Section 81 of the principal enactment as amended by Act No. 2 of 1965 is hereby further amended in subsection (2) of that section by the substitution, for the expression “Criminal Procedure Code”, of the expression “Code of Criminal Procedure Act, No. 15 of 1979”.

Amendment of section 85A of the principal enactment.

27. Section 85A of the principal enactment as amended by Act No. 40 of 1958 is hereby amended by the substitution, for the expression “Chapter XXA of the Criminal Procedure Code” of the expression “Chapter XIX of the Code of Criminal Procedure Act, No. 15 of 1979.”.

Insertion of new sections 85B and 85C in the principal enactment.

28. The following sections are hereby inserted immediately after section 85A, and shall have effect as sections 85B and 85C respectively, of the principal enactment:—

“Provisions of section 303 (5) of the Code of Criminal Procedure Act not to apply to persons to whom the provisions of section 29 of this Act apply.

85B. Notwithstanding the provisions of section 303(5) of the Code of Criminal Procedure Act, No. 15 of 1979, the provisions of section 29 of this Act shall apply to any person convicted of bribery, and on whom a suspended sentence has been imposed under section 303 (1) of the Code of Criminal Procedure Act in respect of that conviction.

Transitional provisions.

85C. Any prosecution pending in the High Court on the day preceding the date of coming into operation of this section, in respect of the offences of soliciting, accepting or offering any gratification which or the value of which does not exceed two hundred rupees, shall stand removed to the Magistrate’s Court if the High Court having regard

to the nature of the offence and other circumstances decides that any such prosecution should be transferred and such Magistrate's Court shall have the jurisdiction to take cognizance of and hear and determine or to complete the same :

Provided that any such prosecution, in which the adducing of evidence has commenced as at the day preceding the date of coming into operation of this section, shall be heard and determined by the said High Court."

29. Section 89A of the principal enactment (inserted by Law No. 38 of 1974) is hereby amended as follows :—

Amendment of section 89A of the principal enactment.

- (i) by the substitution, for the expression "state officer" of the expression "public servant";
- (ii) by the substitution, for the words "the District Court of Colombo" of the words "the High Court holden in Colombo; and
- (iii) by the substitution, in the marginal note thereto, for the expression "state officer" of the expression "public servant".

30. Section 90 of the principal enactment as amended by Law No. 11 of 1976 is hereby further amended by the substitution, for the definition of "scheduled institution", of the following new definition :—

Amendment of section 90 of the principal enactment.

"scheduled institution" means any such board, institution, corporation or other body as is for the time being specified in the Schedule to this Act, and any board, institution, corporation or other body which is deemed under the provisions of any enactment to be a scheduled institution within the meaning of this Act, and includes any company, whether public or private or other body—

- (a) in which any such board, institution, corporation or other body holds, or
- (b) in which more than one such board, institution or other body, in the aggregate, hold,

not less than fifty one per cent of the shares.?