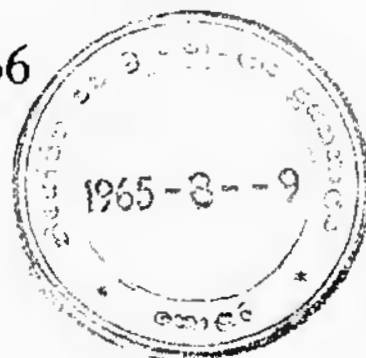


PARLIAMENT OF CEYLON

1st Session 1965-66



Bribery (Amendment) Act, No. 2 of 1965

Date of Assent : July 29, 1965

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Bribery (Amendment) Act, No. 2 of 1965

L. D.—O. 15/62.

AN ACT TO AMEND THE BRIBERY ACT.

[Date of Assent: July 29, 1965]

Chapter 26.
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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Representatives of Ceylon in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Bribery (Amendment) Act, No. 2 of 1965.

Short title.

2. Section 3 of the Bribery Act (hereinafter referred to as the "principal Act"), as amended by Act No. 40 of 1958, is hereby further amended, in sub-section (1) of that section, by the substitution, for all the words from "empowered" to "contrary:", of the following:—

Amendment of section 3 of Chapter 26.

"empowered, notwithstanding anything in any other written law to the contrary, to direct and conduct the investigation of all allegations of bribery which are made to, or come to the knowledge of, the Bribery Commissioner: "

3. Section 4 of the principal Act, as amended by Act No. 40 of 1958, is hereby further amended, in sub-section (2) of that section, by the omission of the words "a Bribery Tribunal,".

Amendment of section 4 of the principal Act.

4. Section 5 of the principal Act, as amended by Act No. 40 of 1958, is hereby repealed and the following new section is substituted therefor:—

Replacement of section 5 of the principal Act.

Indictment before District 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 District Court."

Insertion of new section 6 in the principal Act.

5. The following new section is hereby inserted immediately after section 5 of the principal Act, as amended by Act No. 40 of 1958, and shall have effect as section 6 of the principal Act:—

“ Application of the Criminal Procedure Code.

6. (1) Such of the provisions of the Criminal Procedure Code as are not excluded by sub-section (2) or are not inconsistent with the provisions of this Act shall apply to proceedings in the District Court for bribery.

(2) Section 325 of the Criminal Procedure Code shall not apply to the proceedings referred to in sub-section (1).”

Insertion of new sections 8 and 9 in the principal Act.

6. The following new sections are hereby inserted immediately after section 7 of the principal Act, as amended by Act No. 40 of 1958, and shall have effect as section 8 and section 9 of the principal Act:—

“ Offenders to be indicted without preliminary inquiry.

8. Anything in the Criminal Procedure Code or any other enactment to the contrary notwithstanding, the Attorney-General may indict a person for bribery without a preliminary inquiry by a Magistrate’s Court as provided in Chapter XVI of that Code.

Service of indictment on accused person, &c.

9. (1) An indictment prepared in the manner prescribed by section 186 of the Criminal Procedure Code shall be transmitted by the Attorney-General to the court of trial. He shall at the same time transmit to the Fiscal of the province in which the trial will take place 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 Fiscal 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 and shall make a return of such service to the court of trial and to the Attorney-General or any officer appointed by the Attorney-General to represent him.

(2) The court shall forthwith upon the receipt of the indictment cause to be served on the accused person a notice specifying the date fixed for his trial.

(3) Service on an accused person of any indictment or notice of trial shall be effected in the manner prescribed for the service of summons in sections 45 and 46 of the Criminal Procedure Code and the provisions of section 49 of that Code shall apply accordingly for the purpose of proving such service:

Provided, however, that if service cannot be effected in such manner by the exercise of due diligence, the indictment or notice shall be affixed to some conspicuous part of the house in which the accused person ordinarily resides, and in such case the indictment or notice shall be deemed to have been duly served."

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

Amendment of section 10 of the principal Act.

(1) in sub-section (1) of that section, by the substitution, for all the words from "Where any" to "to him—", of the following:—

"Where the Attorney-General indicts before a District Court any person for bribery, he shall cause to be furnished to that person—";

(2) in sub-section (2) of that section—

(a) by the substitution, for the words "Bribery Tribunal", wherever they occur in that sub-section, of the words "District Court"; and

(b) by the substitution, for the words "such Tribunal", of the words "such Court"; and

(3) in sub-section (3) of that section, by the substitution, for the words "Bribery Tribunal", of the words "District Court".

Insertion of new sections 11 and 12 in the principal Act.

8. The following new sections are hereby inserted immediately after section 10 of the principal Act, as amended by Act No. 40 of 1958, and shall have effect as section 11 and section 12 of the principal Act:—

" Calling of witnesses and use and production of documents not specified in the indictment.

11. At the trial of a person indicted before a District Court for bribery, the Court or the prosecutor may, notwithstanding anything to the contrary in any other written law, call any such witness, or use or produce any such document, as is not specified in the indictment.

Manner of service of summons on any person issued in proceedings in Court for bribery.

12. In addition to the manner of service of summons on witnesses prescribed by the Criminal Procedure Code, summons on any person issued in proceedings in a District Court for bribery may be served in the following manner:—

(a) by registered letter addressed and despatched by express post to the person to be summoned; or

(b) in the case of a public servant, by registered letter addressed and despatched by express post to the head of the department, office or establishment in which such public servant is employed; or

(c) in the case of any person who is employed under any other person, by registered letter addressed and despatched by express post to the employer; or

(d) through any Grama Sevaka; or

(e) in urgent cases by telegram."

9. Sections 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 of the principal Act are hereby amended by the substitution, for the words " seven years or a fine not exceeding five thousand rupees or both ", occurring in each of those sections, of the words " seven years and a fine not exceeding five thousand rupees ".

Amendment of sections 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 of the principal Act.

10. Section 23A of the principal Act, as amended by Act No. 40 of 1958, is hereby further amended in sub-section (3) of that section, by the substitution, for the words " seven years or a fine not exceeding five thousand rupees or both: ", of the words " seven years and a fine not exceeding five thousand rupees: ".

Amendment of section 23A of the principal Act.

11. Section 26 of the principal Act, as amended by Act No. 40 of 1958, is hereby further amended as follows:—

Amendment of section 26 of the principal Act.

(1) by the substitution, for the words " a Bribery Tribunal convicts ", of the words " a District Court convicts ";

(2) by the substitution, for the words " the Tribunal shall, ", of the words " the Court shall, ";

(3) by the substitution, for the words " the Tribunal's ", of the words " the Court's "; and

(4) by the substitution, for the words " opinion of the Tribunal ", of the words " opinion of the Court ".

12. Section 27 of the principal Act, as amended by Act No. 40 of 1958, is hereby further amended in sub-section (1) of that section as follows:—

Amendment of section 27 of the principal Act.

(1) by the substitution, for the words " a Bribery Tribunal, the Tribunal ", of the words " a District Court, the District Judge "; and

(2) by the substitution, for the words " the President of the Tribunal shall ", of the words " the District Judge shall ".

Amendment of section 28 of the principal Act.

13. Section 28 of the principal Act, as amended by Act No. 40 of 1958, is hereby further amended as follows:—

(1) by the repeal of sub-section (1) of that section and the substitution, for that sub-section, of the following sub-section:—

“(1) A fine or a penalty imposed by a District Court on any person for bribery may be recovered as if the order imposing the fine or the penalty were a decree entered by that Court in favour of the Crown and against that person.”;

(2) by the repeal of sub-section (2) and sub-section (4) of that section; and

(3) by the substitution, for the marginal note to that section, of the following marginal note:—

“Recovery of fine or penalty imposed by District Court.”

Amendment of section 29 of the principal Act.

14. Section 29 of the principal Act, as amended by Act No. 40 of 1958, is hereby further amended as follows:—

(1) by the substitution, for the words “by a Bribery Tribunal”, of the words “by a District Court”; and

(2) in the marginal note to that section, by the substitution, for the words “a Bribery Tribunal”, of the words “a District Court”.

Insertion of new section 31 in the principal Act.

15. The following new section is hereby inserted immediately after section 30 of the principal Act, as amended by Act No. 40 of 1958, and shall have effect as section 31 of the principal Act:—

“Trial of accused persons before District Courts and punishment of offences under this Part.”

31. A person charged with an offence under this Part of this Act shall be tried before a District Court, and upon the conviction of that person the Court may impose on him any punishment prescribed for that offence by this Act notwithstanding any limitation of the ordinary jurisdiction of that Court.”

16. Section 39 of the principal Act, as amended by Act No. 40 of 1958, is hereby further amended, in sub-section (3) of that section, by the substitution, for the words "by a Bribery Tribunal", of the words "by a District Court".

Amendment of section 39 of the principal Act.

17. Part IV of the principal Act containing sections 41 to 69A (both inclusive), as amended by Act No. 40 of 1958, is hereby repealed.

Repeal of Part IV of the principal Act.

18. Section 71 of the principal Act, as amended by Act No. 40 of 1958, is hereby further amended by the omission of the words and figures "or by a Bribery Tribunal under sub-section (1) of section 47".

Amendment of section 71 of the principal Act.

19. Section 73 of the principal Act, as amended by Act No. 40 of 1958, is hereby further amended by the substitution, for the words "before a Commission of Inquiry or Bribery Tribunal", of the words "before a court or commission of inquiry".

Amendment of section 73 of the principal Act.

20. Section 74 of the principal Act, as amended by Act No. 40 of 1958, is hereby further amended as follows:—

Amendment of section 74 of the principal Act.

(1) in sub-section (1) of that section, by the substitution, for the words "of either a commission of inquiry or a Bribery Tribunal", of the words "of a commission of inquiry";

(2) in sub-section (2) of that section, by the substitution, for the words "of either a commission of inquiry or a Bribery Tribunal", of the words "of a commission of inquiry";

(3) in sub-section (3) of that section, by the substitution, for the words "of either a commission of inquiry or a Bribery Tribunal", of the words "of a commission of inquiry"; and

(4) in the marginal note to that section, by the omission of the words "or of Bribery Tribunal".

Amendment of section 75 of the principal Act.

21. Section 75 of the principal Act, as amended by Act No. 40 of 1958, is hereby further amended as follows:—

(1) in sub-section (1) of that section—

(a) by the substitution, for the words “ of either a commission of inquiry or a Bribery Tribunal ”, of the words “ of a commission of inquiry ”; and

(b) by the substitution, for the words “ commission or Tribunal ”, of the word “ commission ”; and

(2) in the marginal note to that section, by the substitution, for the words “ commission of inquiry or Bribery Tribunal ”, of the words “ commission of inquiry ”.

Repeal of section 76 of the principal Act.

22. Section 76 of the principal Act is hereby repealed.

Amendment of section 77 of the principal Act.

23. Section 77 of the principal Act, as amended by Act No. 40 of 1958, is hereby further amended as follows:—

(1) in sub-section (1) of that section—

(a) by the substitution, for the words “ of either a commission of inquiry or a Bribery Tribunal ”, of the words “ of a commission of inquiry ”,

(b) by the substitution, for the words “ commission or Tribunal ”, of the word “ commission ”, and

(c) by the substitution, for the words “ chairman of the commission or President of the Tribunal or,”, of the words “ chairman of the commission or,”;

(2) by the repeal of sub-section (2); and

(3) by the substitution, for the marginal note to that section, of the following new marginal note:—

“ Publication of proceedings held *in camera* and report of commission of inquiry. ”.

24. Section 78 of the principal Act is hereby repealed and the following new section is substituted therefor:—

Replacement of section 78 of the principal Act.

“ Prosecutions for offences under this Act, and suits and proceedings in respect of allegations for bribery or statements in evidence, reports and decisions.

78. (1) No prosecution for an offence under this Act (other than an offence under section 70 or section 71 or section 72) shall be instituted in any court except by, or with the written sanction of, the Attorney-General.

(2) The proceedings in a District Court for bribery shall be taken before any other business of that Court unless special circumstances of urgency in such other business render it impossible to do so.

(3) Upon application made in that behalf by the Attorney-General or any officer authorized by him, the whole or any part of the proceedings in any court for bribery may be held *in camera*.

(4) Subject to the other provisions of this Act, no civil or criminal proceedings in respect of any allegation of bribery made to the Bribery Commissioner or to any public servant in his official capacity shall be instituted in any court against the person who made the allegation except with the written sanction of the Attorney-General.

(5) Subject to the other provisions of this Act, no civil or criminal proceedings shall, except with the written sanction of the Attorney-General, be instituted in any court against a person in respect of any written or oral evidence given by him in any proceedings for bribery.

Amendment of section 79 of the principal Act.

(6) Nothing contained in the report of a commission of inquiry published under the order of the Governor-General shall be made the ground of an action for defamation, and no court shall entertain an action for defamation based on anything contained in any such report."

Amendment of section 79 of the principal Act.

25. Section 79 of the principal Act, as amended by Act No. 40 of 1958, is hereby further amended, in sub-section (1) of that section, as follows:—

(1) by the substitution, for the words "commission of inquiry or Bribery Tribunal", of the words "District Court or commission of inquiry"; and

(2) by the substitution, for the words "commission or Tribunal", of the words "court or commission".

Replacement of section 81 of the principal Act.

26. Section 81 of the principal Act is hereby repealed and the following new section is substituted therefor:—

81. (1) At any time before the conclusion of the trial of a person charged with bribery, the Attorney-General in consultation with the Bribery Commissioner, may, with the view of obtaining at the trial the evidence of any person supposed to have been directly or indirectly concerned in or privy to the offence, tender, or by writing under his hand authorize any Magistrate named by him to tender, a pardon to such person on condition of his making a full and true disclosure of the whole of the circumstances within his knowledge relating to the offence and to every other person concerned whether as principal or as abettor in the commission thereof.

(2) The Magistrate shall record in the manner prescribed by the Criminal Procedure Code the evidence on oath of every person accepting a pardon under sub-section (1) and transmit the record to the Attorney-General.”.

27. Section 90 of the principal Act, as amended by Act No. 40 of 1958, is hereby further amended by the omission of the definition of “ Bribery Tribunal ”.

Amendment of
section 90 of
the principal
Act.