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THE PREVENTION OF CORRUPTION ACT, 1947

\(ACT No. II OF 1947)

[11 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:—

1. Short title and extent.— (1) This Act may be called the Prevention of Corruption Act, 1947.

?[(2) It extends to the whole of Pakistan and applies to all citizens of Pakistan and persons in the service of Government wherever they may be.]

2. Interpretation.—For the purposes of this Act, “public servant” means a public servant as defined in section 21 of the Pakistan Penal Code (XLV of 1860) \*[and includes an employee of any corporation or other body or organization set \*[controlled or administered by, or under the authority of,] the [Federal Government] ‘[and provincial government and institution where government capital, share or control is involved]].

3. Offences under sections 161 and 165 of the Penal Code to be cognizable offences.—An offence punishable under Section 161 \*[, 162, 163, 164, 165 or 165-A] of the Pakistan Penal Code (XLV of 1860) shall be deemed to be a cognizable offence for the purposes of the Code of Criminal Procedure, 1898 (V of 1898), notwithstanding anything to the contrary contained therein:

8[\* \* \* \* \*]

'The Act has been applied to Baluchistan, see Gazette of India, 1947. Pt. I, p. 535.

The Act has been applied to whole of the Province of West Pakistan by the West Pakistan Ordinance No.

It has been extended to the Leased Areas of Baluchistan by the Leased Areas (Laws) Order, 1950 (G.G.O.

It has also been amended in its application to the Province of West Pakistan by W.P. Ordinance No. XVII of 1960).

\*Subs. by the Central Laws (Statute Reform) Ordinance, 1960 (Ordinance No. XXI of 1960), s.3 and 2nd Sch.

\*The original sub-section (3) omitted by the Prevention of Corruption (Amendment) Act, 1949 (Act No. IX of 1949).

4Added by the Anti-Corruption Laws (Amendment) Act, 1965 (Act No. XII of 1965), s. 2 and Sch.

SSubs. by the Prevention of Corruption Laws (Amendment) Act, 1977 (Act No. XIII of 1977), s. 2 and Sch.

Subs. by F.A.O., 1975, Art.2 and Table".

Added by Act No. LII of 2021, s. 2.

SSubs. and omitted by the Criminal Law Amendment Act, 1953 (Act No. XXXVII of 1953), s. 5.

4. Presumption where public servant accepts gratification other than legal remuneration.— <sup>1</sup>[(1)] Where in any trial of an offence punishable under section 161 or section 165 of the Pakistan Penal Code (XLV of 1860), 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:

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?[(2) Where in any trial of an offence punishable under section 165A of the Pakistan Penal Code (Act XLV of 1860), 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. Criminal misconduct.— (1) A public servant is said to commit the offence of criminal misconduct 7[\* \* \*]—

(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 Pakistan Penal Code (XLV of 1860), 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

<sup>1</sup>Section 4 re-numbered as sub-section (1) of that section, by the Criminal Law Amendment Act, 1953 (Act No. IX of 1953).  
?Omitted and added ibid., s. 5.

Omitted by the Prevention of Corruption (Amendment) Act, 1949 (Act No. IX of 1950), s. 3.

(d) if he, by corrupt or illegal means or by otherwise abusing his position as public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage '[, or]

'I(e) if he, or any of his dependants, 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 “dependant” in relation 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 7[\* \* \*] shall be punishable with imprisonment for a term which may extend to \*[ten years but not less than seven years].

(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 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 7[\* \* \*] and his conviction therefor shall not be invalid by reason only that it is based solely on such presumption.

4[(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.]

4[5-A Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), no officer below the rank of [Inspector] of Police shall investigate any offence punishable under any of the sections of the Pakistan Penal Code (Act XLV of 1860), mentioned in section 3 or any offence punishable under section 5 without an order of a Magistrate of the first class or make an arrest therefor without a warrant:

5[5-B. Declaration of assets—(1) When the \*[Government and institutions where Government capital share or control is involved] on receipt of information and after making such enquiries as it may deem necessary, is satisfied that there is reason to believe that any public servant or any other person on his behalf is in possession of pecuniary resources or property disproportionate to the known sources of income of such public servant it may, by order require such public servant or other person to furnish in the prescribed manner and within the prescribed time a statement of his property and liabilities and such information relating thereto as may be required by the order.

(2) If such public servant or person—

(a) upon being so required by an order under sub-section (1) fails to furnish the

'Subs.added, ins., and omitted by the Anti-Corruption Laws Amendment Act, 1965 (Act No. XII of 1965), s. 3. Omitted by the Prevention of Corruption (Amendment.) Act, 1949 (Act No. IX of 1950), s. 3.

3Subs by Act No. LI of 2021, s. 3.

4Subs. and ins. by the Criminal Law Amendment Act, 1953 (Act NO. XXXVII of 1953), s. 5.

\*Section 5B and SC, have been ins. In its application to the Province of W. Pakistan by W.P. Ordinance No.

statement or information or furnishes a statement or information which he knows or has reasonable cause to believe to be false or not true in any material particular, or

(b) makes in any book, account, record, declaration, return or other document, which he is required by an order under sub-section (1) to furnish, any statement which he knows or has reasonable cause to believe to be false or not true in any material particular,

he shall be punishable with imprisonment for a term which may extend to [ten years but not less than five years] and shall also be liable to fine.

5C. Possession of property disproportionate to known sources of income.—(1) Any public servant who has in his possession any property, movable or immovable, either in his own name or in the name of any other person, which there is reason to believe to have been acquired by improper means and which is proved to be disproportionate to the known sources of income of such public servant shall, if he fails to account for such possession to the satisfaction of the Court trying him, be punishable with imprisonment for a term which may extend to [ten years but not less than five years] and with fine, and on such conviction the property found to be disproportionate to the known sources of income of the accused by the Court shall be forfeited to the [Government concerned].

(2) The reference in sub-section (1) to property acquired by improper means shall be construed as reference to property acquired by means which are contrary to law or to any rule or instrument having the force of law or by coercion, undue influence, fraud or misrepresentation within the meaning of the Contract Act, 1872.]

6. [Omitted]

7. Accused person to be competent witness.. Any person charged with an offence punishable under section 161 or section 165 of the Pakistan Penal Code or under sub-section (2) of section 5 of this Act shall be 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:

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,

(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—

'Subs by Act No. LII of 2021, ss. 4 and 5.

2Omitted by the Criminal Law Amendment Act, 1953 (Act No. XXXVII of 1953), s. 5.

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(iii)

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

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

he has given evidence against any other person charged with the same offence.