

Rep. by Act... 56..... of 1974, S. 2 & S. 1.

THE ANTI-CORRUPTION LAWS (AMENDMENT)
ACT, 1964

No. 40 OF 1964

[18th December, 1964.]

An Act further to amend the Indian Penal Code, 1860, the Code of Criminal Procedure, 1898, the Criminal Law Amendment Ordinance, 1944, the Delhi Special Police Establishment Act, 1946, the Prevention of Corruption Act, 1947, and the Criminal Law Amendment Act, 1952.

BE it enacted by Parliament in the Fifteenth Year of the Republic of India as follows:—

Short
title.

1. This Act may be called the Anti-Corruption Laws (Amendment) Act, 1964.

Amend-
ment of
Act 45
of 1860.

2. In the Indian Penal Code,—

(1) in section 21,—

(i) for clause *Third*, the following clause shall be substituted, namely:—

“Third.—Every Judge including any person empowered by law to discharge, whether by himself or as a member of any body of persons, any adjudicatory functions;”;

(ii) in clause *Fourth*, after the words “officer of a Court of Justice”, the brackets and words “(including a liquidator, receiver or commissioner)” shall be inserted;

(iii) in clause *Ninth*, the words “and every officer in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty” shall be omitted;

(iv) for clause *Twelfth*, the following clause shall be substituted, namely:—

“*Twelfth*.—Every person—

(a) in the service or pay of the Government or remunerated by fees or commission for the performance of any public duty by the Government;

(b) in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company as defined in section 617 of the Companies Act, 1956.”;

/ of 1956.

(v) *Explanation 4* shall be omitted;

(2) in section 161, section 162 and section 163, after the words “the Legislature of any State”, the words and figures “or with any local authority, corporation or Government company referred to in section 21” shall be inserted.

3. In the Code of Criminal Procedure, 1898,—

Amend-
ment of
Act 5 of
1898.

(1) in section 198B,—

(a) in sub-section (1), the brackets and words “(other than the offence of defamation by spoken words)” shall be omitted;

(b) after sub-section (5), the following sub-section shall be inserted, namely:—

“(5A) Every trial under this section shall be held *in camera* if either party thereto so desires or if the Court of Session so thinks fit to do.”;

(c) after sub-section (13), the following sub-section shall be inserted, namely:—

“(14) Where a case is instituted under this section for the trial of an offence, nothing in sub-section (13) shall be construed as requiring a complaint to be made also by the person aggrieved by such offence.”;

(2) in sub-section (2) of section 222, for the words “dishonest misappropriation of money, it shall be sufficient to specify the gross sum”, the words “dishonest misappropriation of money or other movable property, it shall be sufficient to specify the gross sum or, as the case may be, describe the movable property” shall be substituted;

(3) in sub-section (1) of section 492, for the words “The State Government”, the words “The Central Government or the State Government” shall be substituted;

(4) in sub-section (1) of section 495, for the words "generally or specially empowered by the State Government", the words "generally or specially empowered by the Central Government or the State Government" shall be substituted.

Amendment of Ordinance 38 of 1944.

4. In the Schedule to the Criminal Law Amendment Ordinance, 1944, after item 4, the following item shall be inserted, namely:—

"4A. An offence punishable under section 5 of the Prevention of Corruption Act, 1947."

2 of 1947.

Amendment of Act 25 of 1946.

5. In the Delhi Special Police Establishment Act, 1946, in section 5, after sub-section (2), the following sub-section shall be inserted, namely:—

"(3) Where any such order under sub-section (1) is made in relation to any area, then, without prejudice to the provisions of sub-section (2), any member of the Delhi Special Police Establishment of or above the rank of Sub-Inspector may, subject to any orders which the Central Government may make in this behalf, exercise the powers of the officer in charge of a police station in that area and when so exercising such powers, shall be deemed to be an officer in charge of a police station discharging the functions of such an officer within the limits of his station."

Amendment of Act 2 of 1947.

6. In the Prevention of Corruption Act, 1947,—

(1) in section 4,—

(a) in sub-section (1), after the words and figures "or section 165 of the Indian Penal Code", the words, brackets, letters and figures "or of an offence referred to in clause (a) or clause (b) of sub-section (1) of section 5 of this Act punishable under sub-section (2) thereof" shall be inserted;

(b) in sub-section (2), after the words, figures and letter "section 165A of the Indian Penal Code", the words, brackets and figures "or under clause (ii) of sub-section (3) of section 5 of this Act" shall be inserted;

(2) in section 5,—

(a) in sub-section (1),—

(i) the words "in the discharge of his duty" shall be omitted;

(ii) in clause (d), the word “, or” shall be inserted at the end and after clause (d) as so amended, the following clause shall be inserted, namely :—

“(e) if he or any person on his behalf is in possession or has, at any time during the period of his office, been in possession, for which the public servant cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income.”;

(b) in sub-section (2), the words “in the discharge of his duty” shall be omitted;

* (c) for sub-sections (2A) and (3), the following sub-sections shall be substituted, namely:—

“(3) Whoever habitually commits—

(i) an offence punishable under section 162 or section 163 of the Indian Penal Code, or

(ii) an offence punishable under section 165A of the Indian Penal Code,

shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to seven years, and shall also be liable to fine:

Provided that the court may, for any special reasons recorded in writing, impose a sentence of imprisonment of less than one year.

(3A) Whoever attempts to commit an offence referred to in clause (c) or clause (d) of sub-section (1) shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

(3B) Where a sentence of fine is imposed under sub-section (2) or sub-section (3), the court in fixing the amount of fine shall take into consideration the amount or the value of the property, if any, which the accused person has obtained by committing the offence or where the conviction is for an offence referred to in clause (e) of sub-section (1), the pecuniary resources or property referred to in that clause for which the accused person is unable to account satisfactorily.”;

* Became inoperative vide Act 16 of 1967, s. 2 (w.e.f. 5-5-67).

(3) for section 5A, the following section shall be substituted, namely:—

Investiga-
tion into
cases
under
this
Act.

“5A. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no police officer below the rank,— 5 of 1898.

(a) in the case of the Delhi Special Police Establishment, of an Inspector of Police;

(b) in the presidency-towns of Calcutta and Madras, of an Assistant Commissioner of Police;

(c) in the presidency-town of Bombay, of a Superintendent of Police; and

(d) elsewhere, of a Deputy Superintendent of Police, shall investigate any offence punishable under section 161, section 165 or section 165A of the Indian Penal Code or under section 5 of this Act without the order of a Presidency Magistrate or a Magistrate of the first class, as the case may be, or make any arrest therefor without a warrant: 45 of 1860

Provided that if a police officer not below the rank of an Inspector of Police is authorised by the State Government in this behalf by general or special order, he may also investigate any such offence without the order of a Presidency Magistrate or a Magistrate of the first class, as the case may be, or make arrest therefor without a warrant:

Provided further that an offence referred to in clause (e) of sub-section (1) of section 5 shall not be investigated without the order of a police officer not below the rank of a Superintendent of Police.

(2) If, from information received or otherwise, a police officer has reason to suspect the commission of an offence which he is empowered to investigate under sub-section (1) and considers that for the purpose of investigation or inquiry into such offence, it is necessary to inspect any bankers' books, then, notwithstanding anything contained in any law for the time being in force, he may inspect any bankers' books in so far as they relate to the accounts of the person suspected to have committed that offence or of any other person suspected to be holding money on behalf of such person, and take or cause to be taken certified copies of the relevant entries therefrom, and the bank concerned shall be bound to assist the police officer in the exercise of his powers under this sub-section:

Provided that no power under this sub-section in relation to the accounts of any person shall be exercised by a police officer below the rank of a Superintendent of Police, unless he is specially authorised in this behalf by a police officer of or above the rank of a Superintendent of Police.

Explanation.—In this sub-section, the expressions “bank” and “bankers’ books” shall have the meanings assigned to them in the Bankers’ Books Evidence Act, 1891.”;

18 of 1891.

(4) in sub-section (1) of section 6, after the word, brackets and figure “sub-section (2)”, the words, brackets, figure and letter “or sub-section (3A)” shall be inserted;

(5) after section 6, the following section shall be inserted, namely:—

5 of 1898.

“6A. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, when an accused is charged with an offence under clause (c) of sub-section (1) of section 5, it shall be sufficient to describe in the charge the property in respect of which the offence is alleged to have been committed, and the dates between which the offence is alleged to have been committed, without specifying particular items or exact dates, and the charge so framed shall be deemed to be a charge of one offence within the meaning of section 234 of the said Code: Particulars in a charge in relation to an offence under section 5(1)(c).

Provided that the time included between the first and last of such dates shall not exceed one year.”;

(6) in section 7, the words, brackets and figure “sub-section (2) of” shall be omitted;

(7) after section 7, the following section shall be inserted, namely:—

5 of 1898.

“7A. The provisions of the Code of Criminal Procedure, 1898, shall, in their application to any proceeding in relation to an offence punishable under section 161, section 165 or section 165A of the Indian Penal Code or under section 5 of this Act, have effect as if,—

45 of 1860.

(a) in sub-section (8) of section 251A, for the words “The accused shall then be called upon”, the words “The accused shall then be required to give in writing at once or within such time as the Magistrate may allow, a list of the persons (if any) whom he proposes to examine as his witnesses and of the documents (if any) on which he proposes to rely, and he shall then be called upon” had been substituted;

The Code of Criminal Procedure, 1898, to apply subject to certain modifications.

(b) in sub-section (1A) of section 344, after the second proviso, the following proviso had been inserted, namely:—

“Provided also that the proceeding shall not be adjourned or postponed merely on the ground that an application under section 435 has been made by a party to the proceeding.”;

(c) in sub-section (1) of section 435, before the *Explanation*, the following proviso had been inserted, namely:—

“Provided that where the powers under this sub-section are exercised by a Court on an application made by a party to such proceedings, the Court shall not ordinarily call for the record of the proceeding—

(a) without giving the other party an opportunity of showing cause why the record should not be called for; or

(b) if it is satisfied that an examination of the record of the proceeding may be made from the certified copies thereof;

and in any case, the proceedings, before the inferior Court shall not be stayed except for reasons to be recorded in writing.”;

(d) after sub-section (2) of section 540A, the following sub-section had been inserted, namely:—

“(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Judge or Magistrate may, if he thinks fit and for reasons to be recorded by him, proceed with inquiry or trial in the absence of the accused or his pleader and record the evidence of any witness, subject to the right of the accused to recall the witness for cross-examination.”;

(8) in section 8, after the word, brackets and figure “sub-section (2)”, the words, brackets, figure and letter “or sub-section (3A)” shall be inserted.

Amend-
ment of
Act 46
of 1952.

7. In the Criminal Law Amendment Act, 1952, in clause (a) of sub-section (1) of section 6, the words, brackets and figure “sub-section (2) of” shall be omitted.