

Bribery (Amendment)

Act No 20 of 1994

AN ACT TO AMEND THE BRIBERY ACT

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

Short title and date of operation. **1.** This Act may be cited as the Bribery (Amendment) Act, No. 20 of 1994 and shall come into operation on such date as the Minister may appoint by Order published in the Gazette (hereinafter referred to as "the appointed date").

Repeal of sections 2A, 3, 4, 5, 7 and 10 of Chapter 26. **2.** Section 2A, 3, 4, 5, 7 and 10 of the Bribery Act (hereinafter referred to as the " principal enactment ") hereby repealed.

Amendment of section 23 A of the principal enactment. **3.** Section 23A of the principal enactment is hereby amended in subsection (4) of that section, by the substitution, for the words " the Bribery Commissioner " and " the Commissioner " respectively, of the words " the Commission ".

Repeal of section 27 of the principal enactment. **4.** Section 27 of the principal enactment is hereby repealed.

Insertion of section 28A in the principal enactment. **5.** The following section is hereby inserted immediately after section 28 of the principal enactment and shall have effect as section 28A of that enactment : -

"Forfeiture of property in relation to which an offence has been committed.

(1) Notwithstanding anything to the contrary in any other provision of this Act, where a court convicts a person of an offence under this Part of this Act, the court may in lieu of imposing a penalty or fine under section 26 or section 26A, make order that any movable or immovable property found to have been acquired by bribery or by the proceeds of bribery, be forfeited to the State free from all encumbrances :

Provided however that, in determining whether an order of forfeiture should be made, the court shall be entitled to take into consideration whether such an order is likely to prejudice the rights of a bona fide purchaser for value or any other person who has acquired, for value a bona fide interest in such property.

(2) An order made under subsection (1) shall take effect"

(a) where an appeal has been made to the Court of Appeal or the Supreme Court against the order of forfeiture, upon the determination of such appeal confirming or upholding the order of forfeiture;

(b) where no appeal has been preferred to the Court of Appeal against the order of forfeiture, after the expiration of the period within which an appeal may be preferred to the Court of Appeal against such order of Court."

Replacement of section 30 A of the principal enactment. **6.** Section 30A of the principal enactment is hereby repealed and the following section substituted therefor :-

"Procedure on detection 30A.

of person receiving illegal gratification.

(1) Where any officer appointed to assist the Commission detects any person accepting, soliciting or offering an illegal gratification, such officer shall"

(a) without unnecessary delay take such person before any Magistrate ; or

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

(c) produce before the Magistrate any currency notes alleged to have been accepted, solicited or offered as an illegal gratification by the person referred to in paragraph (a) or (b) together with a report under the hand of the Director-General that such notes were alleged to have been, so accepted, solicited or offered.

(2) Where a person is produced before any Magistrate, under paragraph (b) of sub section (1), the Magistrate shall remand such person until the conclusion of the trial:

Provided however, that the Magistrate may, in exceptional circumstances and for reasons to be recorded release such person on bail at any time prior to the conclusion of the trial.

(3) Where any currency notes are produced before any Magistrate under paragraph (c) of subsection (1) the Magistrate shall issue a certificate under his hand to the effect that notes of the denominations and numbers set out in the certificate were produced before him and such certificate shall be admissible in any proceedings instituted against the person alleged to have accepted, solicited or offered such notes in lieu of producing such notes in such proceedings.

(4) Notwithstanding the provisions of sub section (2), in any proceeding under paragraph (a) or paragraph (b) of subsection (1), where the Commission informs the Magistrate that it does not propose to institute proceedings against the person in custody such person shall be discharged forthwith." .

Replacement of section 70 of the principal enactment.

7. Section 70 of the principal enactment is hereby repealed and the following section substituted therefor:"

" Corruption. 70. Any public servant who, with intent, enactment, to cause wrongful or unlawful loss to the Government, or to confer a wrongful or unlawful benefit, favour or advantage on himself or any person, or with knowledge, that any wrongful or unlawful loss will be caused to any person or to the Government, or that any wrongful or unlawful benefit, favour or advantage will be conferred on any person"

(a) does, or forbears to do, any act, which he is empowered to do by virtue of his office as a public servant;

(b) induces any other public servant to perform, or refrain from performing, any act, which such other public servant is empowered to do by virtue of his office as a public servant;

(c) uses any information coming to his knowledge by virtue of his office as a public servant;

(d) participates in the making of any decision by virtue of his office as a public servant;

(e) induces any other person, by the use, whether directly or indirectly, of his office as such public servant to perform, or refrain from performing, any act.

shall be guilty of the offence of corruption and shall upon summary trial and conviction by a Magistrate be liable to imprisonment for a term not exceeding ten years or to a fine not exceeding one hundred thousand rupees or to both such imprisonment and fine."

Amendment of section 71 of the principal enactment. **8.** section 71 of the principal enactment is hereby amended by the omission of the words and figures " by the Bribery Commissioner under subsection (1) of section 4 or "

Repeal of section 72 of the principal enactment. **9.** Section 72 of the principal enactment is hereby repealed.

Amendment of section 73 of the principal enactment. **10.** Section 73 of the principal enactment is hereby amended in subsection (1) of that section as follows: "

(1) in paragraph (a) of that subsection, by the omission of the words " or any person whose statement has been recorded by the Bribery Commissioner in the course of an investigation " ;

(2) in paragraph (c) of that subsection, by the omission of the words " or any such person ";

(3) in paragraph (c) of that subsection, by the omission of the words " or any such person "

(4) in paragraph (d) of that subsection, by the omission of the words " or any such person"; and

(5) in paragraph (e) of that subsection, by the omission of the words " or any such person ".

Amendment of section 74 of the principal enactment. **11.** Section 74 of the principal enactment is hereby amended by the omission of the words " or any officer appointed under this Act" wherever those words occur in that section.

Amendment of section 78 of the principal enactment. **12.** Section 78 of the principal enactment is hereby amended by the substitution for the words "the Bribery Commissioner or an officer authorized by him in that behalf ", of the words " the Commission ".

Repeal of section 80 of the principal enactment. **13.** Section 80 of the principal enactment is hereby repealed.

Amendment of section 81 of the principal enactment. **14.** Section 81 of the principal enactment is hereby amended as follows :"

(1) in subsection (1) of that section, by the substitution for the words; " Bribery Commissioner ", of the words " the Commission " ; and

(2) in subsection (2) of that section, by the substitution for the words " Attorney-General" of the words " the Commission ".

Repeal of section 85 of the principal enactment. **15.** Section 85 of the principal enactment is hereby repealed.

Amendment of section 90 of the principal enactment. **16.** Section 90 of the principal enactment is hereby amended as follows : -

(1) by the insertion, immediately after the definition of "bribery" of the following definitions: "

" Commission " means the Commission to Investigate Allegations of Bribery or Corruption established by the Commission to Investigate Allegations of Bribery or Corruption Act, No. 19 of 1994 ;

"Director-General" means, the Director-General for the Prevention of Bribery and Corruption appointed under the Commission to Investigate Allegations of Bribery or Corruption Act, No. 19 of 1994 ;'

(2) by the repeal of the definition of " public servant". and the substitution of the following definition therefor:"

" public servant" includes a Minister of the Cabinet of Ministers, a Minister appointed under Article 45 of the Constitution, Speaker, Deputy Speaker, Deputy Chairman of Committees, a Deputy Minister, the Governor of a Province a Minister of the Board of Ministers of a Province, a Member of Parliament, every officer, servant or employee of the State or any Chairman, director, Governor, member, officer or employee, whether in receipt of remuneration or not, a Provincial Council, local authority or a, a scheduled institution, or of a company incorporated under the Companies Act, No. 17 of 1982, in which over fifty per centum of the shares are held by the Government, a member of a Provincial Public Service, every juror, every licensed surveyor and every arbitrator or other person to whom any cause or matter has been referred for decision or report by any court or any other competent public authority:

Provided that where any local authority has been dissolved and the administration of the affairs of that authority has been vested in any person, every employee of that local authority immediately before its dissolution who continues in employment after such dissolution, shall be deemed for the purpose of this Act, to be a public servant.'

Sinhala text to prevail in case of inconsistency.

Retrospective **18.** effect.

17. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.

(1) The amendment made to the principal enactment by section 5 of this Act shall be deemed for all purposes to have come into force on the date of commencement of the principal enactment and accordingly, the punishment described therein may be Imposed for an offence committed prior to the appointed date.

(2) The amendment made to the principal enactment by section 16(2) of this Act shall"

(a) in so far such amendment relates to a Governor of a Province, Minister of a Board of Ministers of a Province, or a member, officer or employee of a. Provincial Council or a member of a Provincial Public Service, be deemed, for all purposes, to have come into force on November 14. 1987 ;

(b) in so far as such amendment relates to any other person, be deemed, for all purposes, to have come into force on the date of commencement of the principal enactment.