

The Prevention of Corruption Act 1988
(with latest Amendments)

Statutes

- ▶ The Indian Penal Code Act 1860
- ▶ The Criminal Law Amendment Ordinance Act 1944
- ▶ The Delhi Special Police Establishment Act 1946
- ▶ The Prevention of Corruption Act, 1988 (as amended in 2018)
- ▶ The Prohibition of Benami Property Transactions Act, 1988
- ▶ The Prevention of Money Laundering Act, 2002
- ▶ The Right to Information Act 2005
- ▶ The Lokpal and Lokayukta Act, 2013
- ▶ The Whistle Blowers Protection Act, 2011 (Act 17 of 2014)

Agencies

1. Central Bureau of Investigation (CBI)
2. Central Vigilance Commission (CVC)
3. Anti Corruption Bureau (ACB)
4. Enforcement Directorate (ED)

Nature of Cases

- ▶ Traps
- ▶ Disproportionate Assets Cases
- ▶ Cases pertaining to abuse of official position by corrupt and illegal means and causing pecuniary advantage without any public interest (Criminal Misconduct).

Cases triable by Special Judge under PC Act 1988.

- PC Act.
- Conspiracy
- Abetment
- Attempt
- Other related offences

Definitions

“Public duty” - a duty in the discharge of which the State, the public or the community at large has an interest;

“Undue Advantage” – Any gratification other than legal remuneration.

“Public servant”

- i. any person in the service or pay of the Government or remunerated by the Government by fees or commission for the performance of any public duty etc.

Offences & Penalties

- **7(a) Public Servant** who obtains or accepts or attempts to obtain an undue advantage.
- to perform or cause performance of public duty, improperly or dishonestly or
- **7(b) Public Servant** who obtains or accepts or attempts to obtain an undue advantage,
- as a reward,
- for improper or dishonest performance of public duty or
- Or
- **7(c) Public Servant** who: performs
- a public duty, improperly or dishonestly
- in anticipation of accepting an undue advantage or
- in consequence of accepting an undue advantage
- **Punishment** with imprisonment not less than 3 years extend to 7 years and fine.

Sec.7(A)

- Whoever obtains, accepts or attempts to obtains an undue advantage.
- for himself or for any other person as a motive or reward,
- to induce a public servant,
- by corrupt or illegal means or
- by exercise of his personal influence or
- to perform or cause to performance of a public duty improperly or dishonestly
- by a public servant by another public servant.
- **Punishment** – 3 years – 7 years and fine.

Sec. 8

- Any person who gives an undue advantage to another person, with intention—
- (Bribe giver)
- to induce a public servant to perform a public duty improperly;
- or
- to reward such public servant for the improper performance of public duty;
- **Punishment** - 7 years or fine or both.
- This section is not applicable for the bribe giver if he lodges a report to investigating agency within 7 days from the date of giving such undue advantage.

Sec. 9

- If any person associated with any commercial organisation gives an undue advantage to a public servant intending—
- to obtain or retain business or an advantage in the conduct of business such organisation shall be punishable with fine.

Sec. 10

The offence u/s 9 if committed by commercial organisation with the connivance of any Director, Manager or Secretary shall be liable for imprisonment 3 years – 7 years and fine.

Sec. 11

- **Public Servant** accepts or obtains or attempts to obtains
- an undue advantage, inadequate or without consideration from any person whom he is concerned in any proceeding having any connection with official function or official duty of himself or any public servant to whom he is subordinate
- **Punishment** for 6 months to 5 years.

Sec. 12

Whoever abets any offence punishable under this Act, whether or not that offence is committed in consequence of that abetment,

Punishment for a term of three to seven years and fine”.

Sec. 13 (1)

a. **public servant** is said to commit the offence of criminal misconduct,—
if he dishonestly or fraudulently misappropriates any property entrusted to him as a public servant or allows any other person so to do; or

b. **public servant** is said to commit the offence of criminal misconduct,—
if he intentionally enriches himself illicitly during the period of his office.

punishment is 4 to 10 years and fine.

Sec. 14 - Habitual Offender

Whoever convicted of an offence under this Act subsequently commits an offence.
shall be punishable for Five to ten years and fine.

Sec. 15 – Attempt to commit Misappropriation

whoever attempts to commit an offence u/s 13(1) & (a) of new Act 2018 (*i.e., misappropriation of any property entrusted to him dishonestly or fraudulently*) shall be liable for punishment for 3 to 5 years and fine.

Sec. 16 – Fixing the amount of fine.

Where a sentence of fine is imposed u/s 7, 8, 9, 10, 11, 13 (2) & 14 or 15, the court in fixing the amount of fine shall be taken into consideration the amount or the value of the property which the accused has obtained by committing the offences.

Investigation into cases under the Act.

Sec. 17

- a) In the case DSPE Act, Inspector of Police
- b) In Metropolitan areas ACP
- c) Elsewhere, DSP or equivalent rank

Sec. 17 (A) Previous approval

No police officer **shall conduct any enquiry** in respect of any offence relating to **any recommendations made or decision taken** by public servant in discharge of his official function **without previous approval** of the Government or competent authority.

No approval is necessarily in case of arrest of person on the spot on the charge of accepting or attempting to accept any undue advantage for himself or for any other person.

The competent authority shall convey its decision within 3 months, which may be extended for one month, for the reasons to be recorded in writing.

Sec. 18 Inspection of Banker Books

The Investigating Officer may inspect any bankers, books relating to accounts of persons suspected of offence and take certified copies of relevant entries of and the bank concerned shall bound to assist the police officer.

Attachment and forfeiture of property

Sec. 18 (A)

The provisions of the Criminal Law Amendment Ordinance, 1944 shall apply to the attachment, administration of attached property and execution of order of attachment or confiscation of money or property.

Sanction for Prosecution and other Miscellaneous Provision

Sec. 19

No Court shall take cognizance of an offence punishable u/s 7, 11, 13 & 15 alleged to have been committed by a public servant except with the previous sanction –

A private person who filed a complaint in a Court against Public Servant for the offence under this Act, on the direction of the court to obtain sanction for prosecution from competent authority can made a request to issue sanction.

The competent authority shall not accord sanction to the Public Servant without providing opportunity of being heard.

The competent authority shall endeavour to convey the decision on proposal, within 3 months which may extend to one month for the reasons to be recorded in writing.

Public Servant includes:

a) who has ceased to hold the office during which the offence is committed; or

b) who has **ceased** to hold the office during which the offence is committed and is **holding post** in another office.

Sec. 20 Presumption:

In trial of offence u/s 7 or 11

if it is proved that public servant Accused of an offence has obtained or accepted or attempted to obtain

any undue advantage,

it shall be presumed that

he has obtained or accepted or attempted to obtain that undue advantage

as a motive or reward for performance of public duty.

THANK YOU