

RAJYA SABHA
NOTICE OF AMENDMENTS
THE PREVENTION OF CORRUPTION (AMENDMENT) BILL, 2013
(As introduced in the Rajya Sabha)
[To be moved at a sitting of the Rajya Sabha]

ENACTING FORMULA

BY DR. JITENDRA SINGH:

1. That at page 1, line 1, for the word “Sixty-fourth”, the word “Sixty-sixth” be substituted.

CLAUSE 1

BY DR. JITENDRA SINGH:

2. That at page 1, line 2, for the figure “2013”, the figure “2015” be substituted.

NEW CLAUSE 1A

BY DR. JITENDRA SINGH:

3. That at page 1, after line 4, the following be inserted,
namely:-

Insertion of
new clause
1A.

- 49 of 1988. “1A. In the Prevention of Corruption Act, 1988 (hereinafter referred to as the principal Act), in section 2, after clause (c), the following clause shall be inserted, namely:-

Amendment
of section 2.

(d) “undue advantage” means any gratification whatever, other than legal remuneration.

Explanation.- For the purposes of this clause,--

(a) the word “gratification” is not limited to pecuniary gratifications or to gratifications estimable in money;

(b) the expression “legal remuneration” is not restricted to remuneration paid to a public servant, but includes all remuneration which he is permitted by the Government or the organisation, which he serves, to receive.’.

CLAUSE 2

BY DR. JITENDRA SINGH:

4. That at page 1, for lines 5 and 6, the following be substituted, namely:-

“2. In section 4 of the principal Act, after sub-section (4), the following sub-section shall be inserted, namely:-

Amendment
of section 4.

“(5) The special Judge shall ensure the completion of the trial within a period of two years from the date of filing of the case:

Provided that in case, the trial is not completed within a period of two years, the special Judge shall record the reasons therefor and complete the trial within a further period of six months which may be extended for six months each at a time, for the reasons to be recorded in writing, but the total period for completing the trial shall not exceed four years.”.

CLAUSE 3

BY DR. JITENDRA SINGH:

5. That at page 1, for lines 9 to 15, the following be substituted, namely:-

“7.(1) Any person, being, or expecting to be, a public servant who obtains or agrees to receive or accepts or attempts to obtain, an undue advantage from any person shall be punishable, with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

(2) Notwithstanding anything contained in sub-section (1), any person, being, or expecting to be, a public servant who, -

(a) obtains or agrees to receive or accepts or attempts to obtain from any person, an undue advantage, intending that in consequence a public function or activity would be performed improperly either by himself or by another public servant; or

(b) obtains or agrees to receive or accepts or attempts to obtain, an undue advantage as a reward for the improper performance (whether by himself or by another public servant) of a public function or activity; or

(c) performs, or induces another public servant to perform, improperly a public function or activity in anticipation of or in consequence of agreeing to receive or accepting an undue advantage from any person,

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

(3) Whoever does not perform public function or activity dishonestly, is not said to commit an offence under this section.

Explanation 1. – For the purpose of sub-section (1), the obtaining, agreeing to receive, accepting, or the attempting to obtain an undue advantage itself constitutes the improper performance of a public function or activity.

Illustration.-- A public servant, 'S' asks a person, 'P' to give him an amount of five thousand rupees to process his routine ration card application on time. S is guilty of an offence under sub-section (1).

Explanation 2. -- For the purpose of sub-section (1), the expressions "obtains" or "attempts to obtain" shall cover cases where a person, being, or expecting to be, a public servant, obtains or attempts to obtain, any undue advantage for himself or for another person, by abusing his position as a public servant or by using his personal influence over another public servant; or by acting in violation of a statutory duty or any set of rules, government policies, executive instructions and procedures; or by any other corrupt or illegal means.

Explanation 3.— For the purpose of this section, it shall be immaterial whether—

(a) such person being, or expecting to be, a public servant obtains or agrees to receive or accepts, or attempts to obtain (or is to agree to receive, or accept) the advantage directly or through a third party;

(b) the undue advantage is, or is to be, for the benefit of such person being, or expecting to be, a public servant or another person.

Explanation 4.— "Expecting to be a public servant". If a person not expecting to be in office agrees to receive or accepts or attempts to obtain from any person, any undue advantage by deceiving such other person into a belief that he is about to be in office, and that he will then serve him, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

Explanation 5.— For the purpose of this section, where a public servant, or a person expecting to be a public servant induces another person erroneously to believe that his influence with the Government has obtained a title or other benefit for that person and thus induces such person to give to him any undue advantage as a reward for this service, the public servant or person expecting to be a public servant has committed an offence under this section.

6. That at page 2, lines 1 to 44, be deleted.
7. That at page 3, lines 1 to 22, be deleted.
8. That at page 3, for lines 23 to 25, the following be substituted, namely:-
“8.(1) Any person who—

(a) offers, promises or gives an undue advantage to another person, and intends such undue advantage -”.
9. That at page 3, for lines 30 to 33, the following be substituted, namely:-
“(b) offers, promises or gives an undue advantage to a public servant and knows or believes that the acceptance of such undue advantage by the public servant would itself constitute the improper performance of a public function or activity.”.
10. That at page 3, after line 38, the following be inserted, namely:-
“*Illustration 1.* -- A person, ‘P’ gives a public servant, ‘S’ an amount of ten thousand rupees to ensure that he is granted a license, over all the other bidders. P is guilty of an offence under clause (a) of this sub-section.

Illustration 2. -- A person, ‘P’ goes to a public servant, ‘S’ and offers to give him an amount of five thousand rupees to process his routine ration card application on time. P is guilty of an offence under clause (b) of this sub-section.”.
11. That at page 3, after line 43, the following be inserted, namely:-
“(2) Nothing in sub-section (1) shall apply to a person, if that person has, after informing a law enforcement authority or investigating agency, offered or gave any undue advantage to another person in order to assist such law enforcement authority or investigating agency in its investigation of the offence alleged against the latter.

Explanation. -- For the removal of doubts, it is clarified that the expression “another person” in this sub-section shall include a person being, or expecting to be, a public servant.”.
12. That at page 4, line 3, for the words “a financial or other advantage”, the words “any undue advantage” be substituted.
13. That at page 4, lines 10 and 11, for the words “a financial or other advantage”, the words “any undue advantage” be substituted.
14. That at page 4, line 28, for the words “a financial or other advantage”, the words “any undue advantage” be substituted.

15. That at page 4, after line 42, the following be inserted, namely:-

“(5) The Central Government shall, in consultation with the concerned stakeholders, and with a view to enhancing compliance with the provisions about the adequate procedures which can be put in place by the commercial organisations to prevent persons associated with them from bribing any person, being or expecting to be, a public servant, prescribe such guidelines as may be considered necessary.”.

16. That at page 4, for lines 43 to 48, the following be substituted, namely:-

“10. Where an offence under section 9 is committed by a commercial organisation, and such offence is proved to have been committed with the consent or connivance of any director, manager, secretary or other officer of the commercial organisation, such director, manager, secretary or other officer shall be guilty of the offence and shall be liable to be proceeded against and punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.”.

Person in charge of commercial organisation to be guilty of offence.

17. That at page 5, lines 1 to 10, be deleted.

CLAUSE 5

BY DR. JITENDRA SINGH:

18. That at page 5, line 16, after the words “offence punishable under this Act,”, the words “other than any offence under section 15,” be inserted.

CLAUSE 6

BY DR. JITENDRA SINGH:

19. That at page 5, for lines 26 to 32, the following be substituted, namely:-

“(b) if he intentionally enriches himself illicitly during the period of his office.

Explanation 1.— A person shall be presumed to have intentionally enriched himself illicitly 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.

Explanation 2.— In Explanation 1, “known sources of income” means income received from any lawful sources.’.

CLAUSE 7

BY DR. JITENDRA SINGH:

20. That at page 5, line 37, for the words “three years”, the words “five years” be substituted.

NEW CLAUSES 8A and 8B

BY DR. JITENDRA SINGH:

21. That at page 5, after line 40, the following be inserted, namely:-

“8A. In section 17 of the principal Act, in the second proviso, *for* the words, brackets, letter and figure “clause (e) of sub-section (1)”, the words, brackets, letter and figure “clause (b) of sub-section (1)” shall be substituted’;

8B. After section 17 of the principal Act, the following section shall be inserted, namely:-

“17A. (1) No police officer shall conduct any investigation into any offence alleged to have been committed by a public servant under this Act, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in the discharge of his official functions or duties, without the previous approval-

(a) of the Lokpal, in the case of a public servant who is employed, or as the case may be, was at the time of commission of the alleged offence employed in connection with the affairs of the Union, and is a person referred to in clauses (a) to (h) of sub-section (1) of section 14 of the Lokpal and Lokayuktas Act, 2013;

(b) of the Lokayukta of the State or such authority established by law in that State under whose jurisdiction the public servant falls, in the case of a person who is employed, or as the case may be, was at the time of commission of the alleged offence employed in connection with the affairs of a State,

Insertion of new clauses 8A and 8B.

Amendment of section 17.

Insertion of new section 17A.

Investigation of offences relatable to recommendations made or decision taken by public servant in discharge of official functions or duties.

1 of 2014.

conveyed by an order issued by the Lokpal in accordance with the provisions contained in Chapter VII of the Lokpal and Lokayuktas Act, 2013 or the Lokayukta of the State or such authority referred to in clause (b) for processing of investigation against the public servant:

1 of 2014.

Provided that no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any undue advantage for himself or for any other person.

(2) Any information received or any complaint which is made to a police officer or any agency (including the Delhi Special Police Establishment) in respect of an alleged offence relating to any recommendation made or decision taken by a public servant in the discharge of his official functions or duties shall, first, be referred by such police officer or agency-

(i) in respect of a public servant referred to in clause (a) of sub-section (1), to the Lokpal;

(ii) in respect of a public servant referred to in clause (b) of sub-section (1), to the Lokayukta of the State or such authority referred to in that clause.

(3) Any information or complaint referred by a police officer or the agency under sub-section (2), shall be deemed to be a complaint made to-

(a) the Lokpal under clause (e) of sub-section (1) of section 2 of the Lokpal and Lokayuktas Act, 2013 and all the provisions of the said Act shall apply accordingly to such complaint;

1 of 2014.

(b) the Lokayukta of a State or such authority established by law in a State, as the case may be, and all the provisions of the law under which the Lokayukta or such authority has been established shall apply accordingly to such complaint”.

CLAUSE 9

BY DR. JITENDRA SINGH:

22. That at page 5, for lines 44 and 45, the following be substituted, namely:-

Substitution of new clause for clause 9.

15 of 2003. Ord. 38 of 1944. “18A. (1) Save as otherwise provided under the Prevention of Money Laundering Act, 2002, the provisions of the Criminal Law Amendment Ordinance, 1944 shall, as far as may be, apply to the attachment, administration of attached property and execution of order of attachment or confiscation of money or property procured by means of an offence under this Act.

Provisions of Criminal Law Amendment Ordinance, 1944 to apply to attachment under this Act.

Ord. 38 of 1944. (2) For the purposes of this Act, the provisions of the Criminal Law Amendment Ordinance, 1944 shall have effect, subject to the modification that the references to “District Judge” shall be construed as references to “Special Judge”.

23. That at page 6, lines 1 to 54, be deleted.
24. That at page 7, lines 1 to 55, be deleted.
25. That at page 8, lines 1 to 50, be deleted.
26. That at page 9, lines 1 to 57, be deleted.
27. That at page 10, lines 1 to 36, be deleted.

CLAUSE 11

BY DR. JITENDRA SINGH:

28. That at page 11, for lines 25 to 27, the following be substituted, namely:-

“to obtain for himself, or for any other person, any undue advantage 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 undue advantage.”

NEW CLAUSE 11A

BY DR. JITENDRA SINGH:

29. That at page 11, after line 29, the following be inserted, namely:-

Insertion of new clause 11A.

“11A. In section 23 of the principal Act,—

Amendment of section 23.

(a) in the marginal heading, for the word, figures, brackets and letter “section 13 (1) (c)”, the word, figures, brackets and letter “section 13 (1) (a)” shall be substituted;

(b) for the word, brackets and letter “clause (c)”, the word, brackets and letter “clause (a)” shall be substituted.’.

CLAUSE 13

BY DR. JITENDRA SINGH:

30. That at page 11, for lines 31 to 34, following be substituted, namely:-

Substitution of new clause for clause 13.

“13. After section 31 of the principal Act, the following section shall be inserted, namely:-

Insertion of new section 32.

“32. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) prescribing guidelines about the adequate procedures which can be put in place by commercial organisations to prevent persons associated with them from bribing any person, being or expecting to be, a public servant, under sub-section (5) of section 9;

(b) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act, shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

CLAUSE 14

BY DR. JITENDRA SINGH:

31. That at page 11, *for* lines 35 to 37, following be substituted, namely:-

Substitution
of new
clause for
clause 14.

“14. In the Prevention of Money Laundering Act, 2002, in Part A of the Schedule, for Paragraph 8, the following Paragraph shall be substituted, namely:-

Amendment
of Act
No.15 of
2003.

“PARAGRAPH 8
OFFENCES UNDER THE PREVENTION OF CORRUPTION ACT, 1988
(49 OF 1988)

Section	Description of offence
7	Offence relating to public servant being bribed.
8	Offence relating to bribing a public servant.
9	Offence relating to bribing a public servant by a commercial organization.
12	Punishment for abetment of offences defined in the Act.
13	Criminal misconduct by a public servant.
14	Punishment for habitual offender.”’.

New Delhi;
November 27, 2015.

Shumsher K. Sheriff
Secretary-General