

Bill Summary

The Prevention of Corruption (Amendment) Bill, 2013

- The Prevention of Corruption (Amendment) Bill, 2013 was introduced in Rajya Sabha on August 19, 2013 by the Minister of State for Personnel, Public Grievances and Pensions, Mr. V. Narayanasamy. It was referred to the Standing Committee on Personnel, Public Grievances, Law and Justice on August 23, 2013. The Committee submitted its report on February 6, 2014. The Bill amends the Prevention of Corruption Act, 1988.
- The Bill makes the giving of a bribe an offence, enlarges the definition of taking a bribe and covers commercial organisations.
- **Taking of a bribe:** The Act defines taking of a bribe by a public servant as any act of requesting, obtaining gratification, favours or a service to any person for doing any official act. This provision is replaced by the Bill. It states that a public servant is said to have taken a bribe if: (i) he requests, expects, accepts or attempts to obtain any advantage or reward in exchange for the improper performance of a public activity, by himself or another; (ii) his request or acceptance or attempt in itself qualifies as improper performance of his public function. The Act stipulates punishment with imprisonment for six months to five years. The Bill enhances the imprisonment to three to seven years.
- **Giving of a bribe:** The Bill introduces a new provision related to the offence of giving of a bribe to a public servant. Under the Bill, the requirement is that the bribe giver: (i) offers any advantage to another person in return for inducing or giving a reward to a public official for improper performance of his public function, (ii) offers any advantage to a public official, knowing that such acceptance would in itself qualify as improper performance of his function. The punishment is imprisonment from three to seven years and a fine.
- **Intermediaries and third party involvement:** The Act penalises taking of a bribe through intermediaries and third parties. The Bill covers bribes that are given to an intermediary, or given through a third party.
- **Giving of a bribe by a commercial organisation:** The Act only covered bribing in 'business transactions'. Under the Bill, a commercial organisation is held guilty of giving a bribe to a public official if it offers any gratification in return of obtaining or retaining any advantage in business. The person acting for the organisation is held guilty of having given a bribe. Further, the head of the organisation is also held guilty with imprisonment from three to seven years, and a fine. However, the organisation and its head may not be liable if it is proven that the head had no knowledge, and adequate precautions were taken.
- **Abetment:** Under the Act, abetting in the taking of a bribe is punishable with imprisonment for six months to five years. The Bill covers abetment of all offences, punishable by imprisonment from three to seven years.
- **Criminal Misconduct and Habitual offender:** The Act defines 'criminal misconduct' by a public servant if he habitually takes a bribe, or fraudulently misappropriates property. The Bill replaces this provision to cover: (i) fraudulent misappropriation of property entrusted to him, and (ii) intentional enrichment of resources by illicit means. Further, the Bill defines a habitual offender as a convicted public servant who has subsequently committed an offence under the Act, and raises the punishment to imprisonment from three to ten years.
- **Attachment of property acquired as a bribe:** The Bill states that an investigating police officer may confiscate the property of a public servant believed to have committed an offence. To do so, he must make an application before the Special Judge with prior government approval.
- **Protection to retired public servants from prosecution:** Under the Act, public officials in office may not be prosecuted without prior sanction from the state or central government. The Bill extends such protection to retired public officials if they were in office at the time of the alleged offence.
- **Presumption of wrongdoing:** Under the Act, when it is proven that a public servant has accepted any advantage for himself or another, then it shall be presumed that he did so in return for the improper performance of his public function. This applies to offences related to taking of a bribe, transactions including business proceedings and criminal intimidation. The Bill changes this provision to include the presumption of wrongdoing for the offence of taking of a bribe only.



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