

Section 17A of the new Prevention of Corruption(Amendment) Act 2018

“12. Whoever abets any offence punishable under this Act, whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall be not less than three years, but which may extend to seven years and shall also be liable to fine.”

Punishment for abetment of offences.

7. In section 13 of the principal Act, for sub-section (I), the following shall be substituted, namely:—

Amendment of section 13.

“(I) A public servant is said to commit the offence of criminal misconduct,—
(a) if he dishonestly or fraudulently misappropriates or otherwise converts for his own use any property entrusted to him or any property under his control as a public servant or allows any other person so to do; or
(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 of or has, at any time during the period of his office, been in possession of pecuniary resources or property disproportionate to his known sources of income which the public servant cannot satisfactorily account for.

Explanation 2.—The expression “known sources of income” means income received from any lawful sources.”

8. For section 14 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 14.

“14. Whoever convicted of an offence under this Act subsequently commits an offence punishable under this Act, shall be punishable with imprisonment for a term which shall be not less than five years but which may extend to ten years and shall also be liable to fine.”

Punishment for habitual offender.

9. In section 15 of the principal Act, for the words, brackets and letters “clause (c) or clause (d)”, the word, brackets, and letter “clause (a)” shall be substituted.

Amendment of section 15.

10. In section 16 of the principal Act,—

Amendment of section 16.

(a) for the words, brackets and figures, “sub -section (2) of section 13 or section 14”, the words, figures and brackets “section 7 or section 8 or section 9 or section 10 or section 11 or sub-section (2) of section 13 or section 14 or section 15” shall be substituted;

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

11. In section 17 of the principal Act, in the second proviso, for the words, brackets, letter and figure “clause (e) of sub-section (I)”, the words, brackets, letter and figure “clause (b) of sub-section (I)” shall be substituted.

Amendment of section 17.

12. After section 17 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 17A.

“17A. (I) No police officer shall conduct any enquiry or inquiry or 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 discharge of his official functions or duties, without the previous approval—

Enquiry or Inquiry or investigation of offences relatable to recommendations made or decision taken by public servant in discharge of official functions or duti

(a) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of the Union, of that Government;

(b) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of a State, of that Government;

(c) in the case of any other person, of the authority competent to remove him from his office, at the time when the offence was alleged to have been committed;

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;

Provided further that the concerned authority shall convey its decision under this section within a period of three months, which may, for reasons to be recorded in writing by such authority, be extended by a further period of one month.”

Insertion of new Chapter IVA.

13. After Chapter IV of the principal Act, the following Chapter shall be inserted, namely:—

‘CHAPTER IV A

ATTACHMENT AND FORFEITURE OF PROPERTY

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

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.

15 of 2003.
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”.

Ord. 38 of 1944.

Amendment of section 19.

14. In section 19 of the principal Act, in sub-section (1),—

(i) for the words and figures “sections 7, 10, 11, 13 and 15”, the words and figures “sections 7, 11, 13 and 15” shall be substituted;

(ii) in clause (a), for the words “who is employed”, the words “who is employed, or as the case may be, was at the time of commission of the alleged offence employed” shall be substituted;

(iii) in clause (b), for the words “who is employed”, the words “who is employed, or as the case may be, was at the time of commission of the alleged offence employed” shall be substituted;

(iv) after clause (c), the following shall be inserted, namely:—

“Provided that no request can be made, by a person other than a police officer or an officer of an investigation agency or other law enforcement authority, to the appropriate Government or competent authority, as the case may be, for the previous sanction of such Government or authority for taking cognizance by the court of any of the offences specified in this sub-section, unless—

(i) such person has filed a complaint in a competent court about the alleged offences for which the public servant is sought to be prosecuted; and

(ii) the court has not dismissed the complaint under section 203 of the Code of Criminal Procedure, 1973 and directed the complainant to obtain the sanction for prosecution against the public servant for further proceeding;

2 of 1974.

Provided further that in the case of request from the person other than a police officer or an officer of an investigation agency or other law enforcement authority, the appropriate Government or competent authority shall not accord sanction to prosecute a public servant without providing an opportunity of being heard to the concerned public servant:

Provided also that the appropriate Government or any competent authority shall, after the receipt of the proposal requiring sanction for prosecution of a public servant under this sub-section, endeavour to convey the decision on such proposal within a period of three months from the date of its receipt: