

*Repealed by W.P. Ordinance
20 of 1961*

SIND ACT No. XXIV OF 1950¹.

[THE SIND PREVENTION OF BRIBERY AND CORRUPTION
ACT, 1950.]

[27th May, 1950].

An Act to provide for the more speedy trial and more effective punishment of certain offences punishable under the Pakistan Penal Code and certain other Laws.

WHEREAS it is expedient to provide for the more speedy trial and more effective punishment of certain offences punishable under the Pakistan Penal Code and certain other laws committed in connection with the matters concerning Provincial Government ; It is hereby enacted as follows :—

Short title
and com-
mencement.

1. (1) This Act may be called the Sind Prevention of Bribery and Corruption Act, 1950.

(2) It shall come into force at once.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,—

(a) " Special Judge " means the Special Judge appointed by the Provincial Government under section 5 of this Act ;

(b) " Anti-Corruption Officer " means an Anti-Corruption Officer appointed by the Provincial Government ;

(c) " Inspector of Police " means the Inspector of the Anti-Corruption Police Establishment of the Provincial Government ;

(d) " Anti-Corruption Commissioner " means Anti-Corruption Commissioner appointed by the Provincial Government ;

(e) " District Magistrate " means the Magistrate of a District appointed under the Code of Criminal Procedure, 1898 ; v of 1898.

(f) The term " public servant " shall, for the purposes of this Act or of offences under this Act, be deemed to include, besides the categories mentioned in section 21 of the Pakistan Penal Code, 1860, every person who holds office or is otherwise employed by the Provincial Government whether on a salary or not, for the discharge of any duties in connection with the affairs of the Provincial Government.

XLV of
1860.

¹ For Statement of Objects and Reasons, see S. G. G., 1949, Pt IV, p. 135 ; and for Proceedings in Assembly, see S. L. A. Debates, 1950, Vol. VII, Book No. 3, pp. 36-37.

3. (1) An offence punishable under section 162 of the Pakistan Penal Code, 1860, shall be deemed to be cognizable offence for the purposes of the Code of Criminal Procedure, 1898, notwithstanding anything to the contrary contained therein :

Offence under section 162, P.P.C. to be cognizable offence.

Provided that a police officer below the rank of an Inspector of Police shall not for the purposes of this Act, investigate any offences specified in the schedule appended hereto or make any arrest therefor without a warrant.

(2) Whoever brings any influence upon the investigating officer with a view to prevent him from carrying out his duties independently or lawfully shall be deemed to have abetted the offence in respect of which the investigation is being carried out.

4. The Inspector of Police shall exercise the powers of the Officer-in-Charge of a Police Station in the district in which he is appointed and when exercising such power shall be deemed to be an officer-in-charge of a Police Station discharging the functions of such officer within the limits of his station.

Inspector to be the Officer-in-Charge of the Police Station.

5. The Provincial Government may, for the purposes of this Act, by notification in the *Official Gazette*, appoint Special Judges to try and punish the aforesaid offences and such other offences as may be notified from time to time in the *Official Gazette* (hereinafter referred to as the said offences).

Appointment of Special Judge.

6. The Court of the Special Judge shall have jurisdiction within such territorial limits as may be fixed by notification in the *Official Gazette*, in respect of cases directly sent up to it for trial by the aforesaid police Establishment.

Jurisdiction of Special Judges and cognizance of cases by them.

7. (1) Any case arising out of any of the said offences which may be pending before any Court, at the time of appointment of a Special Judge under section 5 above, shall be deemed to be transferred from the said court to that of the Special Judge exercising jurisdiction in that area.

Procedure in trial of cases and powers of Special Judges.

(2) In the course of the trial of any case relating to any of the said offences, the Special Judge may also try any offence not specifically (or initially) charged which is an offence with which the accused may under the Code of Criminal Procedure, 1898, be charged at the same trial.

(3) The provisions of the Code of Criminal Procedure, 1898, ^{V of 1898.} except those of chapter XXXVIII of that Code shall, so far as they are not inconsistent with this Act, apply to the proceedings of the Court of the Special Judge, and for the purposes of the said provisions the Court of the Special Judge shall be deemed to be a Court of sessions trying cases without the aid of assessors or jury.

8. (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, the sanction of the Provincial Government ^{V of 1898.} shall be required for the prosecution under this Act of public servants for the said offence for trial by the Special Judge.

(2) The Provincial Government may by general or special order authorise any subordinate officer or officers to grant sanction for prosecution on its behalf in respect of various grades of Government servants.

9. The Provincial Government or any subordinate officer or officers empowered by the Provincial Government in its behalf, may at any stage of investigation or the trial of the said offences with a view to obtaining the evidence of any person supposed to have been directly or indirectly concerned tender a pardon to such person for the purposes of sections 337-339 A of the Code of Criminal ^{V of 1898.} Procedure, 1898.

10. (1) When any person is charged before a Special Judge, with an offence triable under this Act, the fact that such person, or any other person through him or on his behalf, is in possession, for which he cannot satisfactorily account, of pecuniary resources, or property disproportionate to his known sources of income, or that such person has on or about the time of offence with which he is charged obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, may be proved and may be taken into consideration by the Special Judge as a relevant fact in deciding whether he is guilty of the particular offence with which he is charged.

(2) Where in any trial before a Special Judge of an offence punishable under sections 161 to 165 of the Pakistan Penal Code, 1860, it is proved that an accused person has accepted or attempted to obtain, for himself or for any other person, any gratification (other than legal remuneration) or any valuable thing, or any pecuniary advantage from a person or the agent of a person, for any favour shown or promised to be shown by the accused person, it shall be presumed, unless the contrary is proved that he accepted or obtained, or agreed to accept or attempted to obtain, that

Sanction of
Provincial
Government
for the
prosecution
of public
servants.

Tender of
Pardon to
accomplice.

Special
Rules of
evidence.

XLV of
1860

XLV of
1860.

gratification or that valuable thing, or pecuniary advantage to himself or some other person, as the case may be, as a motive or, reward such as is mentioned in sections 161-163 of the Pakistan Penal Code, 1860, or, as the case may be, without consideration, or for a consideration which he knows to be inadequate :

Provided that the court may decline to draw such presumption if the gratification or thing or pecuniary advantage aforesaid is in its opinion so trivial that no inference of corruption may fairly be drawn from the same.

11. A Special Judge, unless he in his discretion otherwise decides, shall not be bound to recall or rehear any witnesses, who had given evidence, or to re-open proceedings already held, but may act on the evidence already produced or recorded and the proceedings already held by any court or his predecessor in office.

Bar to trial
denovo.

12. (1) The Provincial Government may appoint Special Public Prosecutor ^{1*} * to conduct such case before the Special Judge.

Special Public
Prosecutor.

(2) The Provincial Government may delegate the power under sub-section (1) above to Anti-Corruption Commissioner, Sind, or to District Magistrate.

13. When any person charged before a Special Judge with an offence triable under this Act is found guilty of the offence, the Special Judge, shall, notwithstanding anything contained in any other law, whether or not he imposes a sentence of imprisonment, impose a sentence which shall not ordinarily be less than the gain found to have been derived by the accused by the commission of the offence :

Punishment
of offences.

Provided that the minimum sentence for a member of the Anti-Corruption Police Establishment, if found guilty of the offence, shall be two years' rigorous imprisonment.

14. (1) An appeal against the judgment of a Special Judge shall lie to the Chief Court of Sind, and the same court shall also have powers of revision.

Appeal, re-
vision and
transfer of
cases.

(2) No court shall have authority to transfer any case from the Court of Special Judge :

Provided that in exceptional circumstances the Provincial Government may transfer a case from the Court of one Special Judge to that of another.

1 The words " from the lawyers of the local bar " omitted by Sind 26 of 1952, s. 2.

(3) No prosecution under this Act of any person either generally or in respect of any one or more offences for which he is being tried shall be withdrawn except under the orders of the Provincial Government.

Power to
make rules.

15. (1) The Provincial Government may make rules¹ to carry out the purposes of this Act.

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

(a) authorisation of persons to exercise the power to sanction prosecutions on behalf of the Provincial Government of various grades of Government servants ;

(b) the qualifications and emoluments of the Special Judge, and the manner in which they shall be appointed ;

(c) territorial limits of the jurisdiction of Special Judges and the place and time of sitting of the courts presided over by the Special Judge ;

(d) the summoning of witnesses and compelling the production of documents and the penalty for disobeying or evading the same, in addition to or substitution of the provisions of the Criminal Procedure Code, 1898 ;

V of 1898.

(e) other matters incidental to the above.

Provisions
inconsistent
with other
laws.

16. The provisions of the Act shall have effect notwithstanding anything inconsistent therewith contained in the Code of Criminal Procedure, 1898, or any other law for the time being in force.

SCHEDULE.

(a) Offences punishable under sections 161 to 165, 217, 218, 403 to 409, 411, 414 to 420, 465 to 468, 471, 474 and 477A of the Pakistan Penal Code, 1860 (XLV of 1860).

(b) Offences punishable under the Prevention of Corruption Act, 1947 (II of 1947).

(c) Attempts, abetments and conspiracies in relation to, or connection with, the offences mentioned in clauses (a) and (b).

¹ For Rules, see G. N., H. D., No. 5351-H.C./48(I), dated 14th February 1952, see S. G.G., 1952, Pt. IV-A, pp. 45-46.