

The Criminal Law Amendment Ordinance, 1946

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Act 6 of 1946

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112.

An Ordinance to make special provision in regard to certain offences. Whereas an emergency has arisen which renders it necessary to make special provisions in regard to certain offences; Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance.

1. Short title, extent and commencement

(1) This Ordinance may be called The Criminal Law Amendment Ordinance, 1946. (2) It extends to the whole of India except the State of Jammu and Kashmir, and applies also to the citizens of India outside India. (3) It shall come into force at once.

2. Special rules of evidence

(1) In any trial of or inquiry by a Court into an offence specified in the Schedule, the fact that an accused person is in possession, for which he cannot satisfactorily account, of pecuniary resources or property disproportionate to his known resources of income, or that he has, at or about the time of the alleged offence, 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 Court as if it were a relevant fact within the meaning of the Indian Evidence Act, 1872 (2 of 1872). (2) Where in any trial of or inquiry by a Court into an offence punishable under section 161 or 165 of the Indian Penal Code (45 of 1860) it is proved that an accused person has accepted or obtained, or has agreed to accept or attempted to obtain, for himself or for any other person, any gratification (other than legal remuneration) or any valuable thing from a person or the agent of a person seeking to obtain

facilities for transport or holding or seeking to obtain a contract from His Majesty's Government in the United Kingdom or in any part of His Majesty's dominions, or the Central or State Government or a department of any such Government or a local authority or from any person acting on behalf of any such Government or department or authority, it shall be presumed unless the contrary is proved that he accepted or obtained, or agreed to accept or attempted to obtain, that gratification or that valuable thing, as the case may be, as a motive or reward such as is mentioned in the said section 161 or, as the case may be, without consideration or for consideration which he knows to be inadequate. Explanation. For the purposes of this sub-section transport includes the carriage whether of persons or property of any description by rail, road, air, sea or inland waters.

3. Special provisions regarding punishment

(1) Notwithstanding anything to the contrary contained in the Indian Penal Code (45 of 1860) or the [Code of Criminal Procedure, 1898 (5 of 1898)] [Now see the Code of Criminal Procedure, 1973 (2 of 1974).], relating to sentences and the powers of Courts to impose sentences, where any person is found guilty of an offence specified in the Schedule the Court convicting him, whether or not it imposes a sentence of imprisonment, shall impose, in addition to such sentence of fine, if any, as it would otherwise have imposed, a further sentence of fine which shall be equivalent to the amount of money or value of other property found by the Court to have been procured by the convicted person by means of the offence. (2) Except where the offence of which the person is found guilty is an offence specified in item 1 or item 5 of the Schedule, when it appears that the offence has caused loss to more than one Government referred to in the Schedule or local authority, the Court shall in its order of conviction record a finding indicating the amount of loss sustained by each such Government or local authority. (3) When a person is found guilty at the same trial or in the same proceedings of one or more offences specified in item 1 or item 5 of the Schedule and of one or more offences specified in any of the other items of the Schedule, the Court shall in its order of conviction record a finding indicating separately the amounts procured by means of the two classes of offences. (4) Where an additional fine is imposed under sub-section (1) for an offence, it shall, after deduction of the costs of recovery as determined by the Court, be credited to the Government (being a Government referred to in the Schedule) or local authority to which the offence has caused loss, or where there is more than one such Governments or local authority, be distributed among them in proportion to the loss sustained by each: Provided that the provisions of this sub-section shall not apply in respect of any additional fine imposed for an offence specified in item 1 or item 5 of the Schedule, or in a case of the nature referred to in sub-section (3), in respect of such portion of the additional fine as is equivalent to the amount found under that sub-section to have been procured by means of offences specified in those items. (5) Nothing in this section shall apply to any case to which the provisions of section 12 of the Criminal Law Amendment Ordinance, 1944 (38 of 1944) apply. The Schedule (See sections 2(1) and 3)

1. An offence punishable under section 161 or section 165 of the Indian Penal Code (45 of 1860), or any conspiracy to commit or any attempt to commit or any abetment of such offence.

- 2. An offence punishable under section 106 or section 108 or section 409 of the Indian Penal Code (45 of 1860), where the property in respect of which the offence is committed is property entrusted by His Majestys Government in the United Kingdom or in any part of His Majestys dominions or the Central or a State Government or a department of any such Government or a local authority or a person acting on behalf of any such Government or department or authority.**
- 3. An offence punishable under section 411 or section 414 of the Indian Penal Code (45 of 1860), where the stolen property in respect of which the offence is committed is property such as is described in the preceding item and in respect of which an offence punishable under any of the sections mentioned in that item has been committed.**
- 4. An offence punishable under section 417 or section 420 of the Indian Penal Code (45 of 1860), where the person deceived is His Majestys Government in the United Kingdom or in any part of His Majestys dominion or the Central or a State Government or a department of any such Government or a local authority or a person acting on behalf of any such Government or department or authority.**
- 5. An offence punishable under the Hoarding and Profiteering Prevention Ordinance, 1943 or under any rule made or deemed to have been made under the Defence of India Act, 1939 or any conspiracy to commit or any attempt to commit or any abetment of such offence.**
- 6. Any conspiracy to commit or any attempt to commit or any abetment of any of the offences specified in items 2, 3 and 4.**