

Prevention of Corruption Act, 1988

The Prevention of Corruption Act, 1988 (PCA, 1988) is an Act of the Parliament of India enacted to combat corruption in government agencies and public sector businesses in India.

The PCA 1988 has gone through many amendments in order to better implement it. This article will highlight the features of the Prevention of Corruption Act and also shed light on the amendments implemented.

The information from the article will be useful in the polity segment of the UPSC Exams.

Highlights of Prevention of Corruption Act, 1988

The Prevention of Corruption Act was enacted in order to fight corruption and other malpractices in government and public sector business in India.

Under PCA, 1988 the Central Government has the power to appoint judges to investigate and try those cases where the following offences have been committed

1. Offences punishable under the act
2. A conspiracy to commit or an attempt to commit the offences specified under the act

The following are the offences specified under the Prevention of Corruption Act as well as their subsequent punishments:

Punishments and Offences under PCA, 1988	
Offences	Punishments
Taking gratification other than legal remuneration	Those found guilty shall face imprisonment of 6 months extendable upto 5 years. A fine shall also be levied
Taking gratification with the purpose of influencing a public servant, through illegal and corrupt means	Imprisonment for not less than three years which is expandable upto seven years. A fine shall also be levied.
Taking gratification with the purpose of wielding personal influence with public servant	Imprisonment not less than 6 months extendable upto 5 years. A fine shall also be levied
Act of criminal misconduct by the public servant	Imprisonment not less than 1 year expandable upto 7 years. A fine shall also be levied

Investigation shall be done by a police officer not below the rank of:

- In the case of Delhi, of an Inspector of Police.
- In metropolitan areas, of an Assistant Commissioner of Police.
- Elsewhere, a Deputy Superintendent of Police or an officer of equivalent rank shall investigate any offence punishable under this Act without the order of a Metropolitan Magistrate or a magistrate of first class, or make any arrest therefore without a warrant.

Amendments to the Prevention of Corruption Act, 1988

Two amendment acts have been passed for the Prevention of Corruption Act, 1988. One in 2013 and the other in 2018. The highlights of both the amendment acts are given below:

Highlights of the 2013 amendment act:

- Bribery was made a punishable offence. A person who was compelled to bribe, should he/she report this incident to the law enforcement within seven days shall not be charged under the Prevention of Corruption Act.
- Two types of offences were covered under the amended criminal misconduct. The offences are illicit enrichment as in amassing wealth disproportionate to one's income sources and fraudulent misappropriation of property.
- The amendments were made taking prior approval of the relevant government authority to conduct any investigation regarding any offences allegedly conducted by public cases. However, if the offender has been arrested on the spot for taking bribes, then this approval is not needed.
- The Trial Limit for cases under PCA was fixed within two years if it is handled by a special judge. The total period for the trial should last only four years.

Highlights of the 2018 amendment act are as follows:

- Bribery is a specific and a direct offence
- Anyone taking bribes will face imprisonment for 3 to 7 years along with being levied a fine
- Those giving bribes can also be punished with imprisonment for upto 7 years and levied a fine.

- The 2018 amendment creates a provision to protect those who have been forced to pay a bribe in the event the matter is reported to law enforcement agencies within 7 days.
- It redefines criminal misconduct and will now only cover misappropriation of property and possession of disproportionate assets.
- It proposes a 'shield' for government servants, including those retired, from prosecution by making it mandatory for investigating agencies such as the Central Bureau of Investigation to take prior approval from a competent authority before conducting an enquiry against them.
- However, it states that such permissions shall not be necessary for cases involving the 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.
- In any corruption case against a public servant, the factor of "undue advantage" will have to be established.
- The trial in cases pertaining to the exchange of bribes and corruption should be completed within two years. Further, even after reasoned delays, the trial cannot exceed four years.
- It covers bribe-giving commercial organisations to be liable for punishment or prosecution. However, charitable institutions have been left out of its ambit.
- It provides powers and procedures for the attachment and forfeiture of a corruption-accused public servant's property.

Frequently asked questions regarding Prevention of Corruption Act, 1988

What are the characteristics of the Prevention of Corruption Act?

Taking gratification in order to influence a public servant, by corrupt or illegal means, shall be punishable with imprisonment for a term which shall be not less than three year but which may extend to seven years and shall also be liable to fine.

What are the objectives of the Prevention of Corruption Act?

The objective of the Prevention of Corruption Act is to reduce the corruption in India in various government agencies and public sector businesses by combating them.

What are the powers of special courts under PC Act 1988?

A special Judge may take cognizance of offences without the accused being committed to him for trial and, in trying the accused persons, shall follow the procedure prescribed by the Code of Criminal Procedure, 1973 (2 of 1974), for the trial of warrant cases by the Magistrates.