



Corruption of Foreign Public Officials Act, SC 1998, c 34 □

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(SUMMARY)

Corruption of Foreign Public Officials Act

S.C. 1998, c. 34

Assented to 1998-12-10

An Act respecting the corruption of foreign public officials and the implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and to make related amendments to other Acts

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short Title

Short title

1 This Act may be cited as the *Corruption of Foreign Public Officials Act*.

Interpretation

Definitions

2 The definitions in this section apply in this Act.

business means any business, profession, trade, calling, manufacture or undertaking of any kind carried on in Canada or elsewhere. (*affaires*)

foreign public official means

(a) a person who holds a legislative, administrative or judicial position of a foreign state; a person who performs public duties or functions for a foreign state, including a person employed by a board, commission, corporation or other body or authority that is established to perform a duty or function on behalf of the foreign state, or is performing such a duty or function; and

(b) an official or agent of a public international organization that is formed by two or more states or governments, or by two or more such public international organizations. (*agent public étranger*)

foreign state means a country other than Canada, and includes

(a) any political subdivision of that country;

(b) the government, and any department or branch, of that country or of a political subdivision of that country; and

(c) any agency of that country or of a political subdivision of that country

(*État étranger*)

peace officer [Repealed, 2013, c. 26, s. 2]

person means a person as defined in [section 2](#) of the *Criminal Code*. (*quiconque*)

1998, c. 34, s. 2;
2013, c. 26, s. 2.

General

Bribing a foreign public official

(c) as consideration for an act or omission by the official in connection with the performance of the official's duties or functions; or

(d) to induce the official to use his or her position to influence any acts or decisions of the foreign state or public international organization for which the official performs duties or functions.

Punishment

(2) Every person who contravenes subsection (1) is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years.

Saving provision

(3) No person is guilty of an offence under subsection (1) if the loan, reward, advantage or benefit

(a) is permitted or required under the laws of the foreign state or public international organization for which the foreign public official performs duties or functions; or

(b) was made to pay the reasonable expenses incurred in good faith by or on behalf of the foreign public official that are directly related to

(i) the promotion, demonstration or explanation of the person's products and services, or

(ii) the execution or performance of a contract between the person and the foreign state for which the official performs duties or functions.

(4) and (5) [Repealed, 2013, c. 26, s. 3]

1998, c. 34, s. 3;
2013, c. 26, s. 3.

Accounting

4 (1) Every person commits an offence who, for the purpose of bribing a foreign public official in order to obtain or retain an advantage in the course of business or for the purpose of hiding that bribery,

a. establishes or maintains accounts which do not appear in any of the books and records that they are required to keep in accordance with applicable accounting and auditing standards; makes transactions that are not recorded in those books and records or that are inadequately identified in them;

- b. records non-existent expenditures in those books and records;
- c. enters liabilities with incorrect identification of their object in those books and records;
- d. knowingly uses false documents; or
- e. intentionally destroys accounting books and records earlier than permitted by law.

Punishment

(2) Every person who contravenes subsection (1) is guilty of an indictable offence and liable to imprisonment for a term of not more than 14 years.

1998, c. 34, s. 4;
2001, c. 32, s. 58;
2013, c. 26, s. 4.

Offence committed outside Canada

5 (1) Every person who commits an act or omission outside Canada that, if committed in Canada, would constitute an offence under [section 3](#) or [4](#) — or a conspiracy to commit, an attempt to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence under that section — is deemed to have committed that act or omission in Canada if the person is

- a. a Canadian citizen;
- b. a permanent resident as defined in [subsection 2\(1\)](#) of the *Immigration and Refugee Protection Act* who, after the commission of the act or omission, is present in Canada; or
- c. a public body, corporation, society, company, firm or partnership that is incorporated, formed or otherwise organized under the laws of Canada or a province.

Jurisdiction

(2) If a person is alleged to have committed an act or omission that is deemed to have been committed in Canada under subsection (1), proceedings for an offence in respect of that act or omission may, whether or not that person is in Canada, be commenced in any territorial division in Canada. The person may be tried and punished for that offence as if the offence had been committed in that territorial division.

Appearance of accused at trial

(3) For greater certainty, the provisions of the *Criminal Code* relating to the requirements that an accused appear at and be present during proceedings and the exceptions to those requirements apply to proceedings commenced in any territorial division under subsection (2).

Person previously tried outside Canada

(4) If a person is alleged to have committed an act or omission that is deemed to have been committed in Canada under subsection (1) and they have been tried

and dealt with outside Canada for an offence in respect of the act or omission so that, if they had been tried and dealt with in Canada, they would be able to plead *autrefois acquit*, *autrefois convict* or pardon, they are deemed to have been so tried and dealt with in Canada.

Exception for foreign trials in absentia

(5) Despite subsection (4), a person may not plead *autrefois convict* to a count that charges an offence in respect of the act or omission if

(a) the person was not present and was not represented by counsel acting under the person's instructions at the trial outside Canada; and

(b) the person was not punished in accordance with the sentence imposed on conviction in respect of the act or omission.

1998, c. 34, s. 5;

2001, c. 32, s. 58;

2013, c. 26, s. 4.

Laying an information

(6) An information may be laid under section 504 of the Criminal Code in respect of an offence under this Act — or a conspiracy to commit, an attempt to commit, being an accessory after the fact in relation to, or any counselling in relation to, an offence under this Act — only by an officer of the Royal Canadian Mounted Police or any person designated as a peace officer under the Royal Canadian Mounted Police Act.

1998, c. 34, s. 6;

2001, c. 32, s. 58;

2013, c. 26, s. 4.

7 [Repealed, 2001, c. 32, s. 58]

Related Amendments

8 to 10 [Amendments]

Conditional Amendment

11 [Amendment]

Annual Report

Annual report

12 Within four months of the end of each fiscal year, the Minister of Foreign Affairs, the Minister for International Trade and the Minister of Justice and Attorney General of Canada shall jointly prepare a report on the implementation of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, and on the enforcement of this Act, and the Minister of Foreign Affairs shall cause a copy of the report to be laid before each House of Parliament on any of the first fifteen days on which that House is sitting after the report is completed.

Coming into Force

Coming into force

***13 This Act or any of its provisions comes into force on a day or days to be fixed by order of the Governor in Council.**

*[Note: Act in force February 14, 1999, see SI/99-13.]