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# PREVENTION OF BRIBERY (AMENDMENT) ACT, 2014

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No. 3 of 2014

## **PREVENTION OF BRIBERY (AMENDMENT) ACT, 2014**

### **AN ACT TO AMEND THE PREVENTION OF BRIBERY ACT TO PROVIDE FOR TRANSNATIONAL BRIBERY AND TO CRIMINALIZE THE CORRUPTION OF OR BY THE FOREIGN PUBLIC OFFICIAL AND FOR CONNECTED PURPOSES**

[Date of Assent-1<sup>st</sup> May, 2014]

Enacted by the Parliament of The Bahamas

#### **1. Short title and commencement.**

- (1) This Act which amends the Prevention of Bribery Act, (*Ch. 88*) may be cited as the Prevention of Bribery (Amendment) Act, 2014.
- (2) This Act shall come into force on such date as the Minister may, by Notice published in the *Gazette*.

#### **2. Amendment of section 2 of the principal Act.**

Section 2 of the principal Act is amended by the insertion in the appropriate alphabetical order of the following —

“foreign public official” means —

- (a) a person who holds a legislative, administrative or judicial position of a foreign state;
- (b) 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
- (c) 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.

“foreign state” means a country other than the jurisdiction of The Bahamas and includes government, agency, department or branch of that country”.

**3. Insertion of a new sections 3A, 3B and 3C in the principal Act.**

The principal Act is amended by the insertion, immediately after section 3, of the following as a new section 3A —

**“3A. Bribing a foreign public official.**

- (1) A person who, without lawful authority or reasonable excuse, offers any advantage of any kind to a foreign public official in order to obtain or retain an advantage in the course of business as an inducement to or reward for or otherwise on account of that foreign public official —
- (a) as consideration for an act or omission by the official in connection with the performance of the official duties or functions;
  - (b) to induce the official to use his position to influence any acts or decisions of the foreign state or public international organizations or public body for which the official performs duties or functions;
  - (c) performing or abstaining from performing or having performed or abstained from performing, any act in his capacity as a foreign public official; and
  - (d) expediting, delaying, hindering, preventing, assisting or favouring the performance of an official act by a foreign public official or of any person in the transaction of any business with a public body,

shall be guilty of an offence under this Part.

- (2) No person is guilty of an offence under subsection (1) if the advantage —
- (a) is permitted or required under the laws of the foreign state or public international organization or public body for which the foreign public official performs his duties or functions;
  - (b) was made to pay the reasonable expenses incurred in good faith by or on behalf of the foreign public official which are directly related to the performance of the duties or functions of the official.

**3B. Protection of Routine Acts.**

For the purposes of section 3A, a payment in the course of business is not an advantage or benefit, if it is made to expedite the

performance by a foreign public official of any act of a routine nature that is part of the foreign public officials duties or functions, including —

- (a) the issuance of a permit, licence or other documents to qualify a person to do business;
- (b) the processing of official documents, such as visas and work permits;
- (c) the provision of services normally offered to the public, such as power, water supply and telecommunication; and
- (d) the provision of services normally provided, such as police protection and the authorised movement of agricultural good and services.

**3C. Accounting.**

A person who for the purpose of bribing a foreign public official without lawful authority or reasonable excuse, hides that bribery —

- (a) establishes or maintains accounts which do not appear in any of the books and records required to be kept in accordance with accounting and auditing standards;
- (b) makes transactions not recorded in those books or records that are inadequately identified in them;
- (c) records non-existent expenditures in those books and records;
- (d) enters liabilities with incorrect identification on those books;
- (e) knowingly uses false documents; or
- (f) intentionally destroys accounting books and records contrary to the law,

shall be guilty of an offence under this Part.”