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Corruption of Foreign Public Officials Act (S.C. (Statutes of Canada) 1998, c. 34)

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Act current to 2017-10-25 and last amended on 2013-06-19. [Previous Versions \(PITIndex.html\)](#)

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Corruption of Foreign Public Officials Act

S.C. (Statutes of Canada) 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* ([/eng/acts/C-45.2](#)).

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;
- (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. (*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peace officer [Repealed, 2013, c. 26, s. 2]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* ([/eng/acts/C-46](#)). (*quiconque*)

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

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General

Bribing a foreign public official

3 (1) Every person commits an offence who, in order to obtain or retain an advantage in the course of business, directly or indirectly gives, offers or agrees to give or offer a loan, reward, advantage or benefit of any kind to a foreign public official or to any person for the benefit of a foreign public official

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

Facilitation payments

(4) For the purpose of subsection (1), a payment is not a loan, reward, advantage or benefit to obtain or retain an advantage in the course of business, if it is made to expedite or secure the performance by a foreign public official of any act of a routine nature that is part of the foreign public official's duties or functions, including

- (a) the issuance of a permit, licence or other document 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 mail pick-up and delivery, telecommunication services and power and water supply; and
- (d) the provision of services normally provided as required, such as police protection, loading and unloading of cargo, the protection of perishable products or commodities from deterioration or the scheduling of inspections related to contract performance or transit of goods.

Greater certainty

(5) For greater certainty, an "act of a routine nature" does not include a decision to award new business or to continue business with a particular party, including a decision on the terms of that business, or encouraging another person to make any such decision.

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

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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;
- (b) makes transactions that are not recorded in those books and records or that are inadequately identified in them;
- (c) records non-existent expenditures in those books and records;
- (d) enters liabilities with incorrect identification of their object in those books and records;
- (e) knowingly uses false documents; or
- (f) 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.

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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* ([/eng/acts/I-2.5](#)) 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* ([/eng/acts/C-46](#)) 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.

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