

GOVERNMENT CONTRACTS (PROTECTION) ACT, 1979 (AFRCD 58)

ARRANGEMENT OF SECTIONS

Section

1. Penalty for Issuing False Certificates in respect of Government Contracts.
2. Criminal Penalties.
3. Government to withhold Payments under certain Contracts.
4. Penalty for Failing to Comply with Decisions or Directions under Section 3.
5. Offences by Bodies of Persons.
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BE IT ENACTED by the Armed Forces Revolutionary Council as follows:—

Section 1—Penalty for Issuing False Certificates in respect of Government Contracts.

Any person who is responsible for the issue of any certificate on the basis of which any money has been paid out of public funds to or for the benefit of any contractor or other person in respect of any Government contract, shall be jointly and severally liable with that contractor or other person for the refund of any money so paid, to the Government, statutory corporation or other agency of Government by or on behalf of which the money was paid or to any other authority directed in writing by the Government—

- (i) if the person responsible for the issue of the certificate issued the certificate for the payment knowing that the work or service for which the payment was made or the goods for the supply of which the payment was made has not been performed or have not been supplied or that the money was not otherwise due under the contract in question; or
- (ii) if such person issued the certificate for the payment recklessly careless, whether the work had been done or not or the goods supplied or not or whether the money was otherwise due under the contract in question or not; or
- (iii) if in the issue of the certificate the person was grossly negligent.

Section 2—Criminal Penalties.

(1) Without prejudice to the civil liability created by section 1 of this Decree any person guilty of any conduct described in that section and also any contractor or other person who knowingly accepts any payment made in any of the circumstances described in that section shall be guilty of an offence and liable on summary conviction to a fine not exceeding three times the extent of the improper payment in question or to a term of imprisonment not exceeding ten years or to both.

(2) Where in the case of any payment effected in any of the circumstances described in section 1 of this Decree it is proved that the person responsible for the certificate was bribed into issuing the certificate or that the issue of the certificate was otherwise attended by any corrupt practice, then

both the person who gave the bribe and the person who accepted it and any other person who knowingly participated in the bribery or other corrupt practice shall be guilty of an offence and liable to a term of imprisonment not less than five years and not more than fifteen years; and in addition to a penalty equal to three times the amount of the improper payment in question.

Section 3—Government to withhold Payments under certain Contracts.

Notwithstanding anything to the contrary in any contract, where the Government is satisfied that in respect of any Government contract the Government or any statutory corporation or any other Government agency has made to or for the benefit of any contractor or other person any overpayment, improper payment or a payment for which there has been no consideration, the Government may withhold or direct any such statutory corporation or other agency of Government to withhold to the extent of such overpayment, improper payment or other payment any moneys payable under any certificate to any such contractor or other person under any Government contract whatsoever.

Section 4—Penalty for Failing to Comply with Decisions or Directions under Section 3.

Any person who knowingly fails to comply with a Government decision or direction under section 3 of this Decree shall—

- (a) be liable upon summary conviction to a term of imprisonment not exceeding five years; and
- (b) whether or not he is prosecuted under paragraph (a) of this section, to a penalty equal to three times the payment made in contravention of section 3 of this Decree.

Section 5—Offences by Bodies of Persons.

(1) Where any offence under this Decree is committed by any body of persons, then—

- (a) in the case of a body corporate other than a partnership, any Director or Secretary of the body corporate shall also be deemed to be guilty of that offence; and
- (b) in the case of a partnership, any partner shall also be deemed to be guilty of the offence.

(2) No person shall be deemed to be guilty of an offence under this section if he proves that the offence was committed without his knowledge or connivance and that he did all within his power to prevent the commission of such offence having regard to all the circumstances.

Section 6—Interpretation.

In this Decree,

"Government contract" means any contract entered into by the Government or any statutory corporation or any other agency of the Government for the performance of any work or service for or the supply of any goods to the Government, or any such statutory corporation or agency of the Government.

Made this 14th day of September, 1979.

FLT. LT. JERRY JOHN RAWLINGS

Chairman of the Armed Forces Revolutionary Council

Date of Gazette Notification: 22nd September, 1979.