

The Prevention of Corruption Act, 1988

Part-2



ALL INDIA JUDICIARY

THE PREVENTION OF CORRUPTION ACT, 1988

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By Anoop Upadhyay Sir (Law)

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Revise

C. No.	Chapter Name	Range
1.	Preliminary/ प्रारम्भिक	[1-2]
2.	Appointment of <u>Special Judges</u> / विशेष न्यायाधीशों की नियुक्ति	[3-6]
3.	Offences and Penalties / अपराध और शास्तियां	[7-16]
4.	Investigation / अन्वेषण ✓ <i>C & PC - 4-12</i>	[17-18]
4A	Attachment and Forfeiture of Property /सम्पत्ति की कुर्की और समपहरण	[18]
5.	Sanction for Prosecution and other Miscellaneous Provisions /अभियोजन के लिए मंजूरी और अन्य प्रकीर्ण उपबन्ध	[19-31]

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CHAPTER - I

Preliminary/ प्रारम्भिक

Sec. 1.

Short title and extent (संक्षिप्त नाम और विस्तार) -

(1) This Act may be called the Prevention of Corruption Act, 1988.

इस अधिनियम का संक्षिप्त नाम भ्रष्टाचार निवारण अधिनियम, 1988 है।

(2) It extends to the whole of India and it applies also to all citizens of India outside India.

इसका विस्तार सम्पूर्ण भारत पर है और यह भारत के बाहर भारत के समस्त नागरिकों को भी लागू है।

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2. Definitions (परिभाषाएं) -

(a) "election"
"निर्वाचन" *imp.*

(aa) "prescribed"
"विहित"

(b) "public duty"
"लोक कर्तव्य" *imp.*
State

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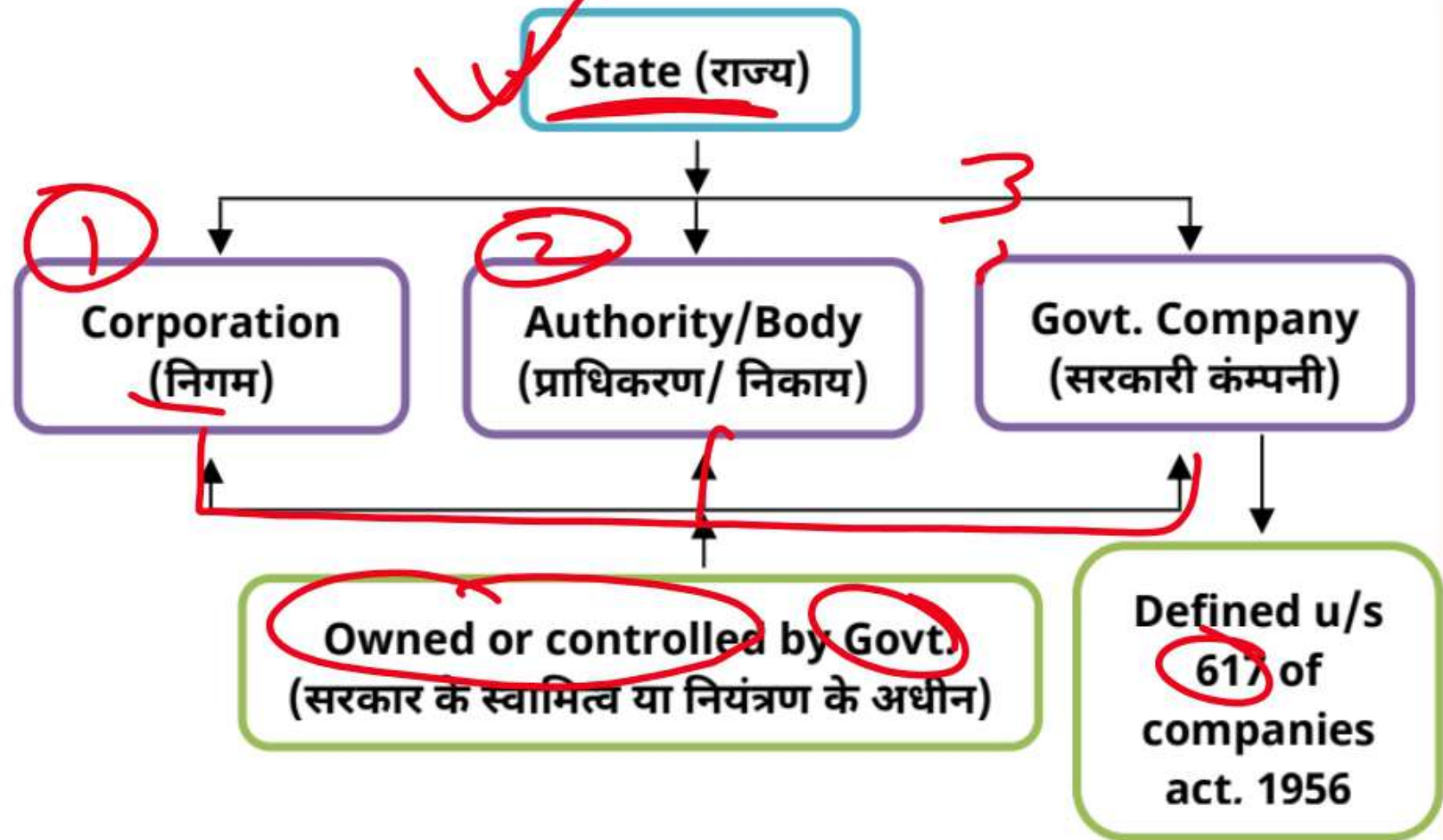
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(c) "public servant"
"लोक सेवक"



(d) "undue advantage"
"असम्यक् लाभ"

असम्यक् लाभ



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R/w 26

CHAPTER II [3-6]

Appointment of Special Judges / विशेष न्यायाधीशों की नियुक्ति

3. Power to appoint Special Judges (विशेष न्यायाधीश नियुक्त करने की शक्ति) -

The Central Government (केन्द्रीय सरकार)

or

the State Government (राज्य सरकार) may,

by notification in the Official Gazette, appoint as many Special Judges as may be necessary



Sec.

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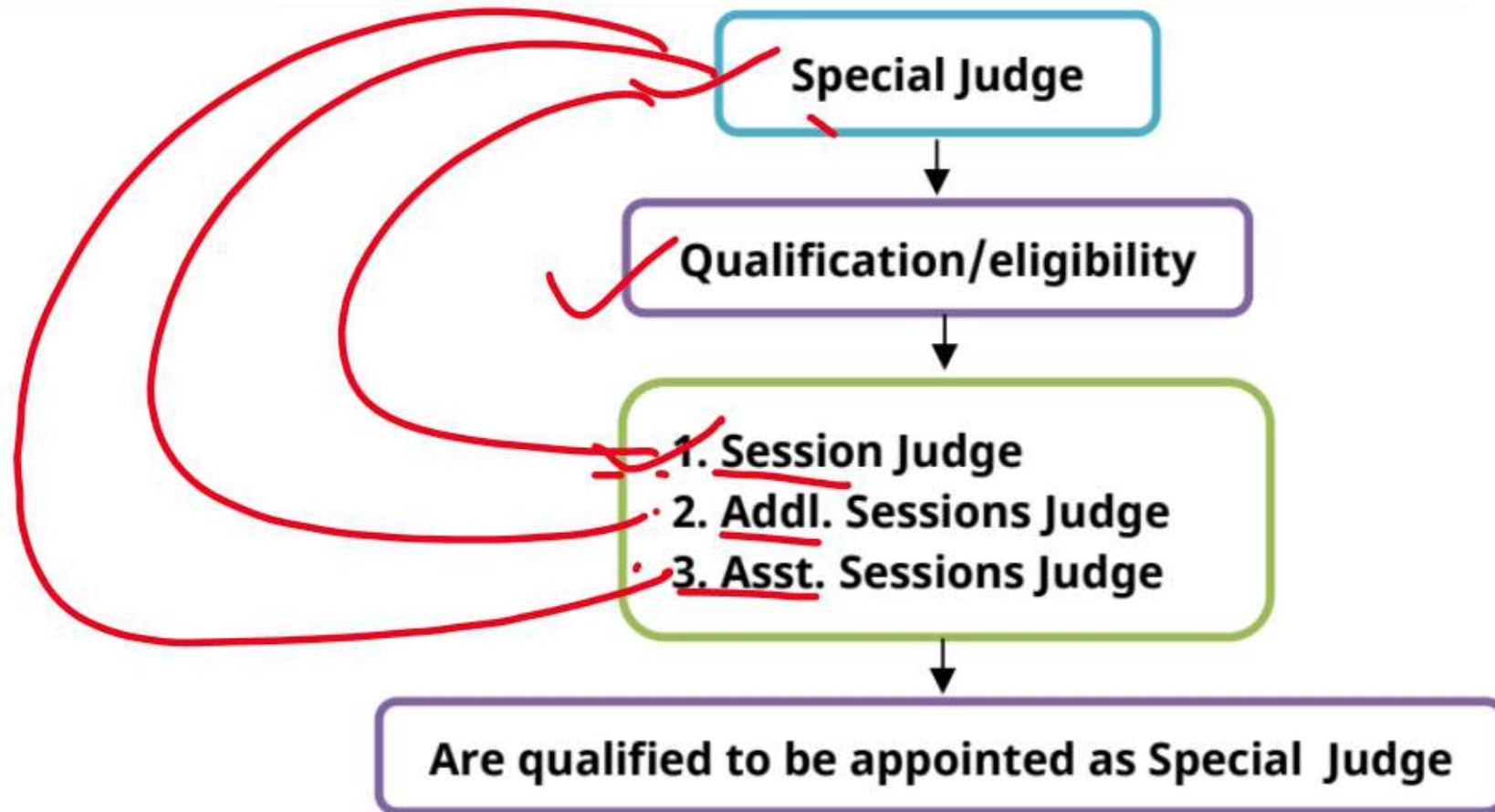
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26. Special Judge appointed under criminal law Amendment Act, 1952

(दण्ड विधि संशोधन अधिनियम, 1952 के अधीन नियुक्त किये गये विशेष न्यायाधीशों को

↓
shall be deemed to be a special judge appointed u/s 3 of P.C. Act, 1988.

(भ्रष्टाचार निवारण अधिनियम, 1988 की धारा 3 में नियुक्त किया गया विशेष न्यायाधीश माना जाएगा)



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v.v. imp. Sec.

4. Cases triable by Special Judges (विशेष न्यायाधीशों द्वारा विचारणीय मामले)-

(1) the offences shall be tried by Special Judges only.

अपराध विशेष न्यायाधीश द्वारा ही विचारणीय होंगे।

Offence 31 पराए Trial

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Trial is concluded within a period of 2 years
विचारण 2 वर्ष की अवधि के भीतर पूरा कर दिया जाता है

Provided that where the trial is not concluded within the said period, the special Judge shall record the reasons for not having done so

परंतु जहां विचारण उक्त अवधि के भीतर पूरा नहीं हो पाता है, वहां विशेष न्यायाधीश **ऐसा न होने पाने के कारणों को लेखबद्ध करेगा**

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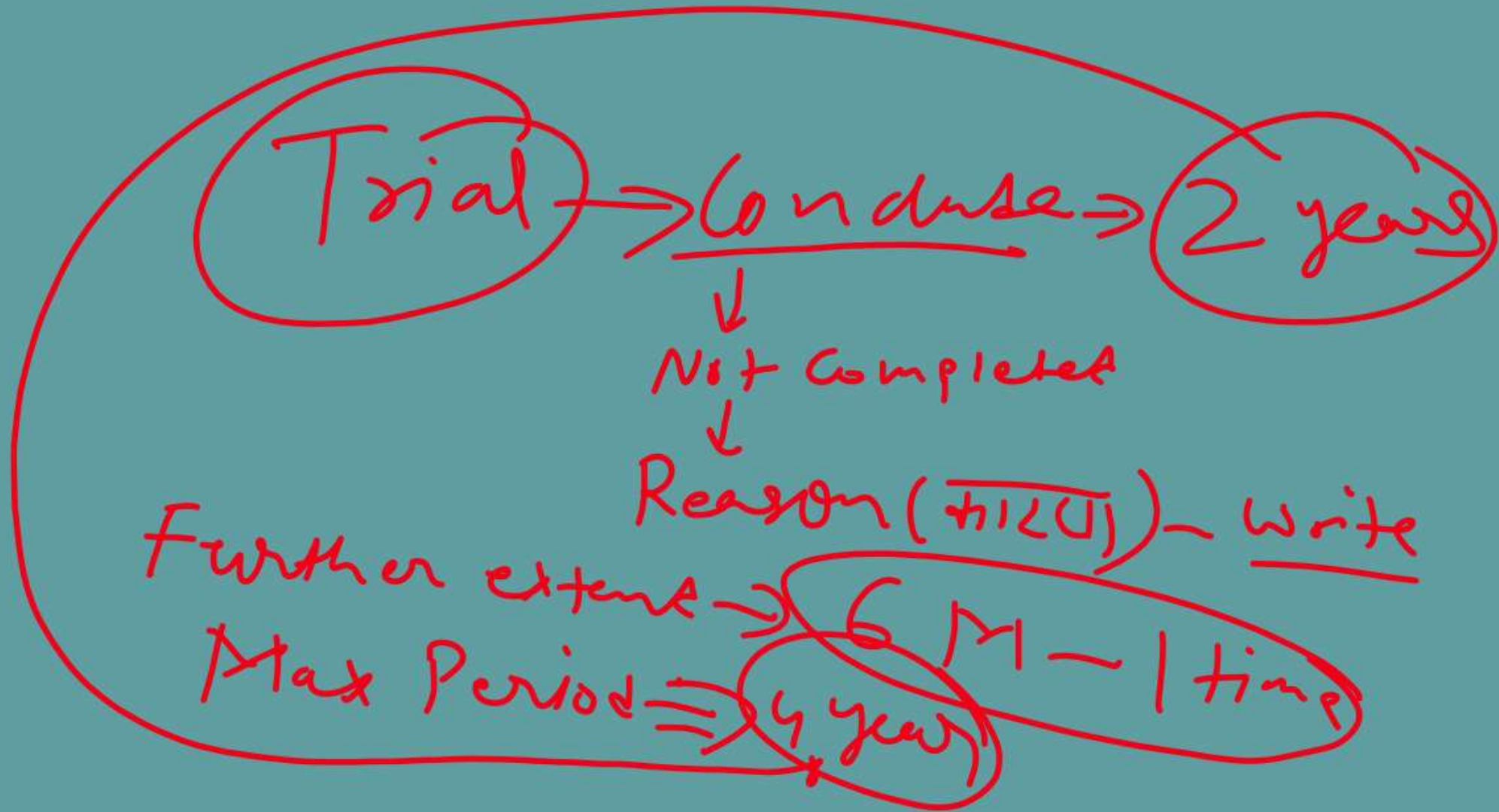


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✓ The said period may be extended by such further period, for reasons to be recorded in writing but **not exceeding 6 months at time** so, उक्त अवधि को, लेखबद्ध किए जाने वाले कारणों से, एक समय में 6 मास से अनधिक आगे और अवधि के लिए विस्तारित किया जा सकेगा

However, that the said period together with such **extended period shall not exceed ordinarily 4 years in aggregate.**

तथापि उक्त अवधि, विस्तारित अर्थात् सहित सामान्य रूप से कुल मिलाकर 4 वर्ष से अधिक नहीं होगी।

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Trial



2 - 6M + 6M + 6M + 6M ⇒ Max 4 yrs

Stop



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See

5. Procedure and powers of Special Judge (प्रक्रिया और विशेष न्यायाधीश की शक्तियां) —

Trial
↓
CrPC
↳ warrant case

(1) A Special Judge shall follow the procedure prescribed by the CrPC, 1973 for the trial of warrant cases by the Magistrates.

विशेष न्यायाधीश विचारण में दण्ड प्रक्रिया संहिता, 1973 में मजिस्ट्रेटों द्वारा वारन्ट के मामलों के लिये विहित प्रक्रिया का अनुसरण करेगा।

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v. imf (2)

SEC 306-308

of crpc

**Tender of pardon to
accomplice**

सह-अपराधी को क्षमादान

A Special Judge may, with a view to obtaining the evidence of any person tender a pardon to such person on condition of his making a full and true disclosure of the whole circumstances within his knowledge relating to the offence and

To every other person concerned, whether as principal or abettor, in the commission thereof and any pardon so tendered shall, for the purposes of Section 308(1) to (5) the CrPC, 1973 be deemed to have been tendered under Section 307 of that Code.

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- ① **Sec. 307 : Power to direct tender of pardon**
(क्षमा-दान का निदेश देने की शक्ति)
- ② **Sec. 308 : Trial of Person ^{7C} not complying with the 'conditions of Pardon'.**
(क्षमा की शर्तों का पालन न करने वाले व्यक्ति का विचारण)

||
No Tenders
of Pardon

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(4) the provisions of Sections 326 and 475 of the CrPC, 1973 shall, so far as may be, apply to the proceedings before a Special Judge and दण्ड प्रक्रिया संहिता, 1973 की धारा 320 और धारा 475 के उपबन्ध, जहां तक हो सके विशेष न्यायाधीश के समक्ष कार्यवाही को लागू होंगे, और

for the purposes of the said provisions, a Special Judge shall be deemed to be a Magistrate.
उक्त उपबन्धों के प्रयोजनार्थ विशेष न्यायाधीश मजिस्ट्रेट समझा जाएगा।

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Sec. 326 :

conviction or commitment on evidence Partly recorded by one Magistrate and Partly by another.

(आंशिक रूप से एक मजिस्ट्रेट द्वारा और आंशिक रूप से दूसरे द्वारा रिकॉर्ड किये गए साक्ष्य पर दोषसिद्धि या प्रतिबद्धता)

LCRAC

पर्स - H.W.

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✓ (6) A Special Judge shall exercise all the powers and functions exercisable by a District Judge under the Criminal Law (Amendment) Ordinance, 1944.

विशेष न्यायाधीश दण्ड विधि संशोधन अध्यादेश, 1944 के अधीन जिला न्यायाधीश द्वारा प्रयोक्तव्य सभी सिविल शक्तियों और कृत्यों का प्रयोग करेगा।

Sec 3 of P.C.
S.J. ⇒ Power ⇒ D.J.

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The Prevention of Corruption Act, 1988 *v.v. imp.*



||

**SUMMARY
TRIALS**

6. Power to try summarily (विचारण करने की शक्ति)-

(1) Where a Special Judge tries any offence

Contravention of any special order u/s 12A of the Essential Commodities Act, 1955 (आवश्यक वस्तु अधिनियम, 1955)

the Special Judge shall try the offence in a summary way,

विशेष न्यायाधीश अपराध का संक्षिप्त रूप में विचारण करेगा

And the provisions of Sections 262 to 265 of the said Code shall apply to such trial

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12 A (1) - E.C. Act 1955
↑
S.J. → S. Trial

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V. imp.

In summary Trial - Max. imprisonment 1 year

Max. 1 yr

up to - 1 yr..

but not

more 1 yr

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(2) No appeal -



There shall be no appeal by a convicted person in any case tried summarily under this section in which the Special Judge passes a sentence of imprisonment upto

1 month,

and fine Max. 2000 rupees.

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CHAPTER III

Offences and Penalties / अपराध और शास्तियां

Unit
[7-16]

Sec.	Offence (अपराध)	Punishment (दण्ड)
7 R/W sec. 20	<u>Bribery taken by public servant</u> (लोक सेवक द्वारा रिश्वत लेना)	Min - 3 yr Max - 7 yr + fine
7a	<u>Taking undue advantage by corrupt/illegal means to influence public servant</u> (भ्रष्ट या अविधिपूर्ण साधनों द्वारा किसी लोक सेवक को प्रभावित करके असम्यक लाभ लेना)	Min - 3 yr Max - 7 yr + fine

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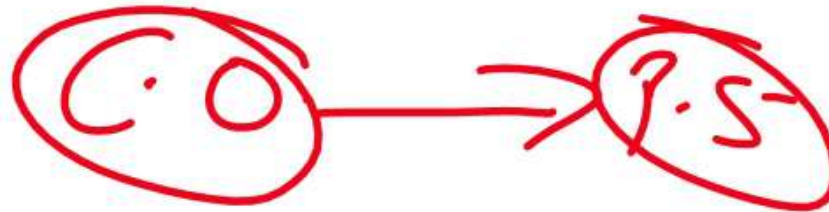
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<p><i>Ser</i> 8.</p>	<p>Who gives bribery to public servant (रिश्वत देने वाला)</p>	<p>Max. - 7 year or Fine or Both</p>
<p>9.</p>	<p>Bribery given to public servant by commercial organization. (वाणिज्यिक संगठन द्वारा किसी लोक सेवक को रिश्वत देना)</p>	<p>Fine only <i>(उत्क्रान्त)</i> <i>केवल</i></p>



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Comm. org. Company
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Sec. 10. Comm.

10.	<u>Person in-charge</u> (director, Manager, Secretary or other officer) [भारसाधक व्यक्ति (निर्देशक, प्रबंधक सचिव या अन्य अधिकारी)]	Min - 3 yr Max - 7 yr + Fine
11.	<u>Public servant obtaining undue advantage without consideration</u> ³ (लोक सेवक प्रतिफल के बिना असम्यक् लाभ अभिप्राप्त करता है)	<u>Min - 6M</u> <u>Max - 5 yr</u> <u>+ Fine</u>

I.C.A → Sec. 25

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12.	Abetment (दुष्प्रेरण)	Min - 3 yr Max - 7 yr + Fine
13. r/w Sec. 23	<u>Criminal Misconduct by Public Servant</u> (लोक सेवक द्वारा आपराधिक अवचार)	Min - 4 yr Max - 10 yr + Fine

Govt Property → Self/personal use

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See

See

14.	Habitual offender - Commits <u>Subsequent offence.</u> (आभ्यासिक अपराधी - बाद में पुनः अपराध करता है)	Min - 5 yr Max - 10 yr + Fine
15.	<u>Attempt</u> (प्रयत्न) - Sec. 13(1)(a) - Public Property <u>own use</u>	Min - 2 yr Max - 5 yr <u>+ Fine</u>
16.	For fixing the amount of fine by court (न्यायालय द्वारा जुर्माना नियत करने के लिए) <u>It shall consider</u> <u>The Amount/Value of Property</u> (उस रकम/सम्पत्ति का मूल्य)	

Gen.

Court

FIS

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Sec. 18. Power to inspect bankers' books.

(बैंककारी बहियों के निरीक्षण की शक्ति)

→ By S.P. or above rank

Superintendent
of
Police

Bank / statement

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4A (18A)

CHAPTER IV-A

Attachment and Forfeiture of Property

(सम्पत्ति की कुर्की और समपहरण)

Sec. 18A. Provisions of Criminal Law Amendment Ordinance, 1944
to apply to attachment under this Act

(दांडिक विधि संशोधन अध्यादेश, 1944 के उपबंधों का इस अधिनियम के अधीन को लागू होना)

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CHAPTER V

Sanction for Prosecution and other Miscellaneous Provisions

(अभियोजन के लिए मंजूरी और अन्य प्रकीर्ण उपबन्ध)

V.V. Jindal
Sec. 19.

Previous sanction necessary for prosecution

(अभियोजन के लिए पूर्व मंजूरी का आवश्यक होना) -

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Sec. 19.

No Court Shall take Cognizance
कोई न्यायालय संज्ञान नहीं लेगा

Offence punishable u/s -

- ✓ 1. Sec. 7 :- Bribery given to Public Servant & accepted by PS
(लोक सेवक को रिश्वत देना) *taken by P.S*
- ✓ 2. Sec. 11 :- Public Servant obtains undue Advantage
(लोक सेवक द्वारा असभ्यक लाभ प्राप्त करना)
- ✓ 3. Sec. 13 :- Criminal Misconduct by Public Servant
(लोक सेवक द्वारा आपराधिक अवचार)
- ✓ 4. Sec. 15 :- Punishment for attempt [13(1)(a)]
(प्रयत्न के लिए दण्ड)

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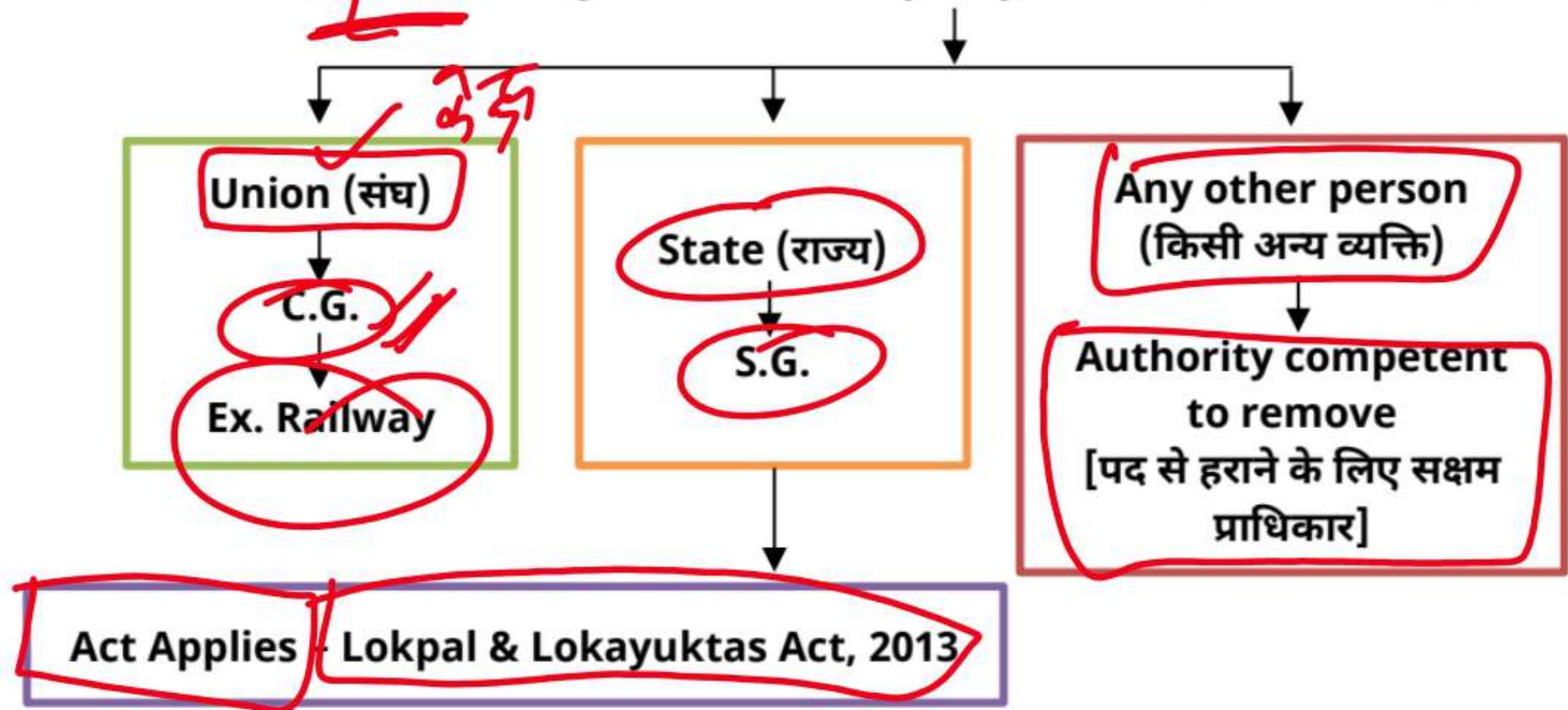


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The Prevention of Corruption Act, 1988

But Court can take cognizance after the previous approval of :- (किन्तु न्यायालय निम्न के पूर्व मंजूरी के बाद संज्ञान ले सकता है-)



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The Prevention of Corruption Act, 1988

Case :- D.L. Rangotha v/s State of M.P.

[2015]

1. Competent authority after giving approval of prosecution against public servant cannot withdraw the approval once granted.

सक्षम प्राधिकारी किसी लोक सेवक के खिलाफ अभियोजन चलाने की स्वीकृति एक बार देने के बाद वापस नहीं ले सकता।

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2/ Approval refused by state govt for Prosecution of appellant, while he was in service can not be Prosecuted after retirement.

अपीलार्थी के अभियोजन के लिए, जब वह सेवा में था, राज्य सरकार द्वारा नामंजूर की गयी स्वीकृति उसे सेवा निवृत्त के बाद अभियोजन नहीं किया जा सकता।

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The Prevention of Corruption Act, 1988

Case :- Balbhadra Parashar v/s State of M.P.
[2016]

Approval to Prosecute appellant granted cannot be declared to be illegal when it is not found to granted in an absolute mechanical manner.

अपीलार्थी को अभियोजित करने के लिए प्रदत्त स्वीकृति अवैध लेना घोषित नहीं की जा सकती, जब उसे आत्यक्तिक रूप से यांत्रिक ढंग में प्रदान किया जाना नहीं पाया जाता।

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Sec. 19 (2) :- अगर Approval किससे लिया जाए

इस बात का doubt है तो यहाँ पर उस Competent Authority (सक्षम प्राधिकारी) की approval लेंगे जो उस समय Public Servant (लोक सेवक) को हटाने का Power (शक्ति) रखता है।

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20. Presumption where public servant accepts any undue advantage.

(जहां लोक सेवक असम्यक लाभ प्रतिगृहीत करता है वहां उपधारणा) -

It shall be presumed, that he accepted or obtained or attempted to obtain that undue advantage

Burden of Proof

→ Public Servant

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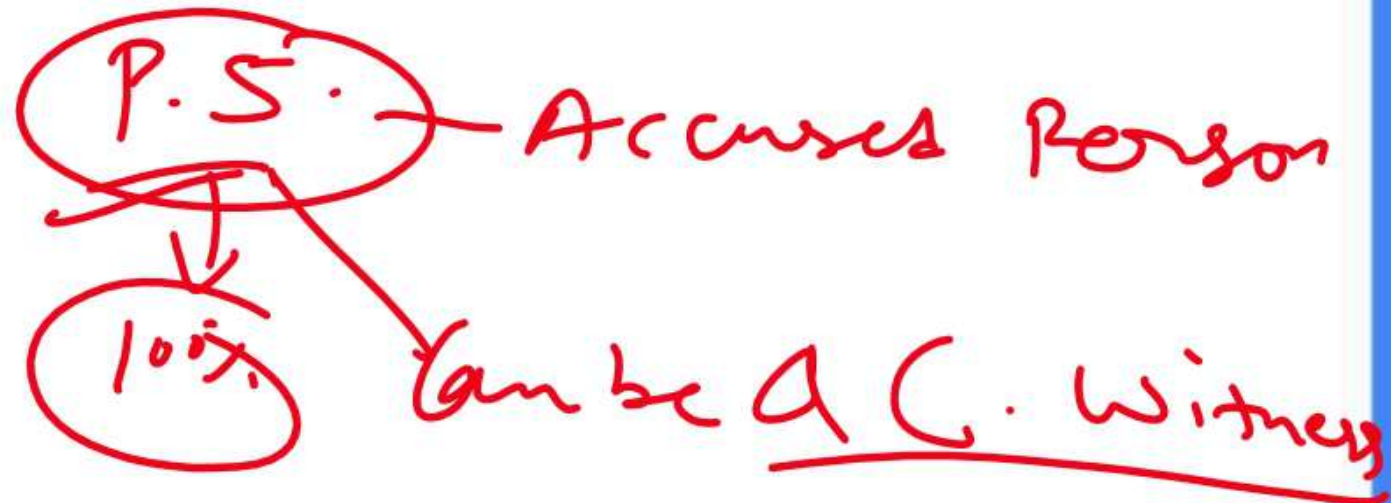
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21. Accused person to be a competent witness
(अभियुक्त व्यक्ति का सक्षम साक्षी होना) -



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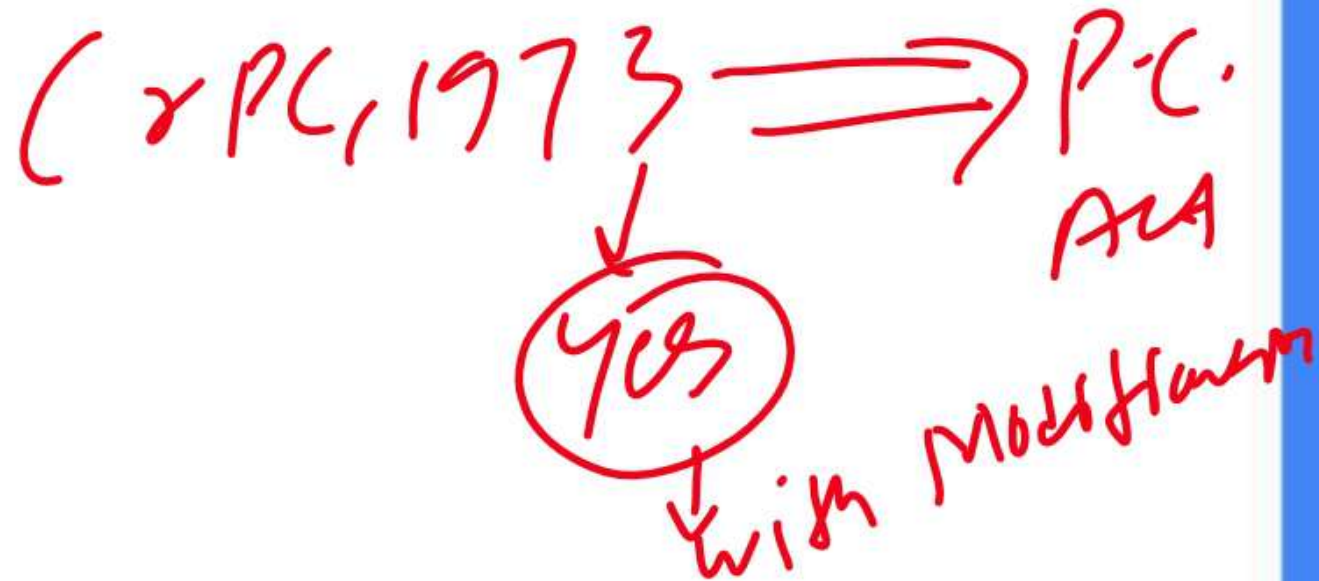
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22. The CrPC, 1973 to apply subject to certain modifications (दण्ड प्रक्रिया संहिता, 1973 का कुछ उपान्तरणों के अधधीन लागू होना) -



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24. ~~Omitted~~

Sec. 25 :- Prevention of Corruption Act, not applied / or not affected.

P.C.A.A
↓
आपलीय
नहीं है...

1. Army Act, 1950
2. Air force Act, 1950 ✓
3. Navy Act, 1957 ✓
4. BSF Act, 1968 ✓
5. Coast Guard Act, 1978 ✓
6. National Security Guard Act, 1986 (NSG Act)
7. Military acts

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The Prevention of Corruption Act, 1988

Sec 26. Special Judges appointed under Criminal Law Amendment Act, 1952

to be Special Judges appointed under this Act.

(दण्ड विधि (संशोधन) अधिनियम, 1952 के अधीन नियुक्ति विशेष न्यायाधीशों का इस अधिनियम के अधीन नियुक्त विशेष न्यायाधीश होना) -

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Sec- 27. Appeal and revision (अपील और पुनरीक्षणद) -

The High Court may exercise all the powers of appeal and revision conferred by the CrPC, 1973

Special Court → Appeal
H.C.

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The Prevention of Corruption Act, 1988

Prevention of
Money
Laundering
COPC
IPS
evils
Benami Transactions
RTI etc.

28. Act to be in addition to any other law अधिनियम का किसी अन्य विधि के अतिरिक्त होना) -

↓
P.C. Extra Act

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Sec

29A. Power to make rules (नियम बनाने की शक्ति) -

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

केन्द्रीय सरकार, इस अधिनियम के उपबंधों को क्रियान्वित करने के लिए, राजपत्र में अधिसूचना द्वारा, नियम बना सकेगी।

==

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① Infrastructure facility
② Court → establish
↓
Power ⇒ S.C.F.

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The Prevention of Corruption Act, 1988

30. Repeal and saving (निरसन और व्यावृत्ति) -

Sec
(1) The Prevention of Corruption Act, 1947 (2 of 1947) and

2 the Criminal Law Amendment Act, 1952 (46 of 1952) are hereby repealed.

भ्रष्टाचार निवारण अधिनियम, 1947 (1947 का 2) और

दण्ड विधि संशोधन अधिनियम, 1952 (1952 का 46) निरसित किए जाते हैं।

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31. Omission of certain Sections of Indian Penal Code

Sections 161 to 165-A shall be omitted,

and Section 6 of the General Clauses Act, 1897 (10 of 1897) shall apply to such omission as if the said sections had been repealed by a Central Act.

V.V. Imp!

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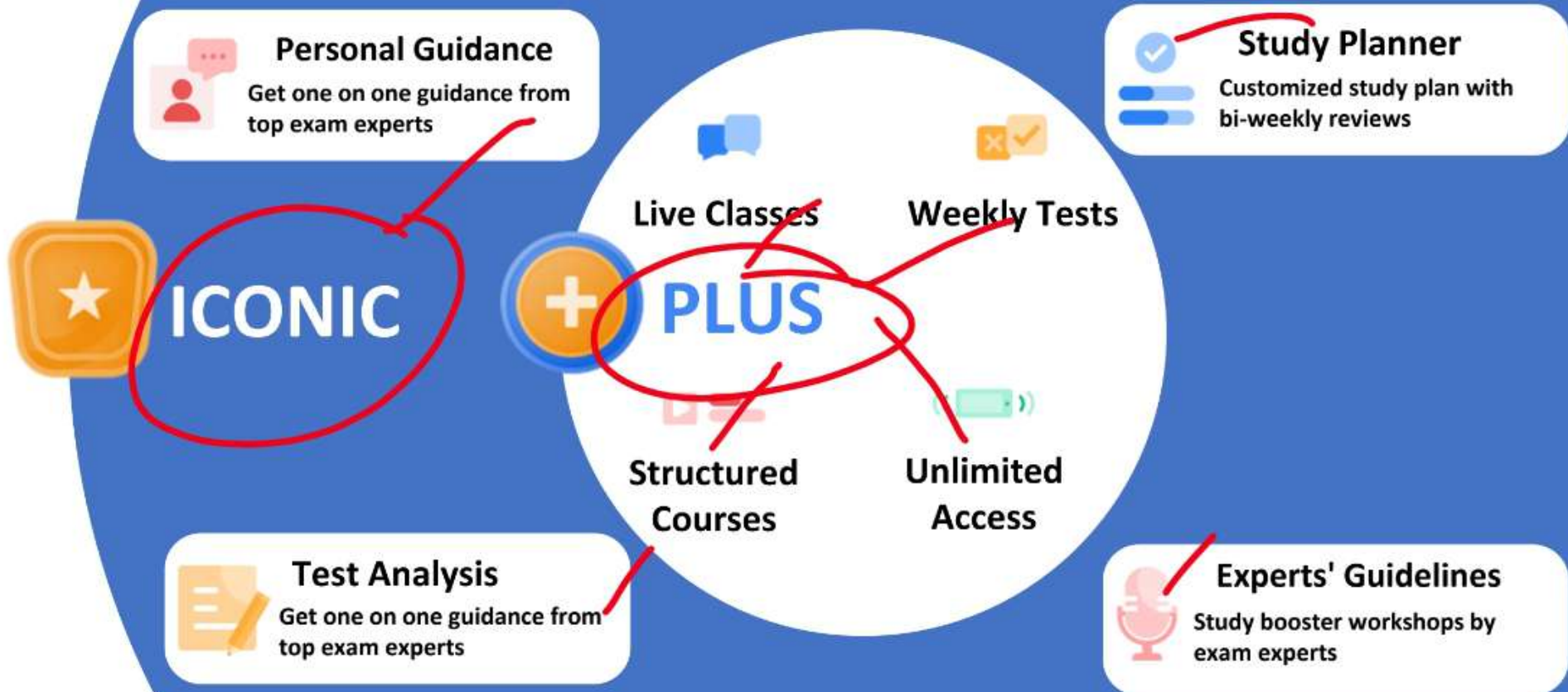


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