

Corruption Bill [HL]

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TO

Make provision about corruption.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

OFFENCES

Main corruption offences

1 General corruption offences

- (1) A person commits an offence if he— 5
- (a) gives an advantage to or procures an advantage for any person, or
 - (b) offers or agrees to give an advantage to or to procure an advantage for any person,
- with the intention of influencing that person or another person to exercise a function improperly or as a reward for so exercising a function. 10
- (2) A person commits an offence if he—
- (a) obtains an advantage for himself or another person, or
 - (b) solicits or agrees to obtain an advantage for himself or another person, upon the basis that it will or may influence him or another person to exercise a function improperly or as a reward for so exercising a function. 15

2 Corrupt transactions involving agents

- (1) A person commits an offence if he—
- (a) gives an advantage to or procures an advantage for any person, or
 - (b) offers or agrees to give an advantage to or to procure an advantage for any person, 20

- with the intention of influencing that person or another person to exercise a function improperly, or as a reward for so exercising a function, in each case in that or the other person's capacity as an agent in relation to his principal's affairs.
- (2) A person commits an offence if, in his capacity as an agent in relation to his principal's affairs, he— 5
- (a) obtains an advantage for himself or for another person, or
 - (b) solicits or agrees to obtain an advantage for himself or for another person,
- upon the basis that it will or may influence him or another person to exercise a function improperly or as a reward for so exercising a function. 10
- 3 Bribery of foreign public officials**
- A person commits an offence if he—
- (a) gives an advantage to or procures an advantage for any person, or
 - (b) offers or agrees to give an advantage to or procure an advantage for any person, 15
- with the intention of influencing that person or another person to exercise a function improperly, in each case in that or the other person's capacity as a foreign public official.
- 4 Foreign bid-rigging** 20
- (1) A person commits an offence if, in return, or as a reward for, an advantage being given to or procured for himself or one or more other persons, he agrees with one or more other persons to make or implement, or to cause to be made or implemented, bid-rigging arrangements.
- (2) In this section, "bid-rigging arrangements" are arrangements under which it is agreed that, in response to a request for competitive bids for the supply of goods or services, the execution of works, the production of goods or the provision of investment or finance in, to or for a country or territory outside the United Kingdom— 25
- (a) one or more of the parties to the arrangements do not make a bid, 30
 - (b) one or more of the parties to the arrangements withdraw a bid, or
 - (c) more than one of the parties to the arrangements may make a bid, but that at least one of those bids is arrived at in accordance with the arrangements.
- (3) Arrangements are not bid-rigging arrangements if, under them, the person requesting bids would be informed of them at or before the time when the bid is made. 35
- 5 Corruption in sport**
- (1) A person commits an offence if he— 40
- (a) gives an advantage to or procures an advantage for any person, or
 - (b) offers or agrees to give an advantage to or procure an advantage for another person,
- with the intention of influencing that person or another person to contravene subsection (3).

- (2) A person commits an offence if he –
- (a) obtains an advantage for himself or for another person, or
 - (b) solicits or agrees to obtain an advantage for himself or for another person,
- with the intention of influencing that person or another person to contravene subsection (3). 5
- (3) It is a contravention of this subsection –
- (a) to do or not to do something which constitutes a threat to the integrity of a sporting event (or any part of such an event) including, in any way, influencing the run of play or the outcome of a sporting event, or 10
 - (b) not to report any such act or omission to the person appointed to receive such reports by the sporting body (including a governing body, international body or umbrella body), or regulatory authority, concerned, or to a constable.
- (4) In this section – 15
- “sporting event” means an event or contest in any sport between individuals or teams or in which an animal, or bird, competes and which –
- (a) is usually attended by the public, and
 - (b) is governed by rules which include the constitution, rules or code of conduct of – 20
 - (i) any sporting body which stages any sporting event, or
 - (ii) any regulatory body under whose constitution, rules or code of conduct the sporting event is conducted;
- “umbrella body” means any body (including the International Olympic Organisation) which has authority over all other bodies in relation to a particular sport, group of sports, or sporting event. 25

6 Presumption of corruption

Where in proceedings against a person for an offence under section 1 or 2 of this Act involving the exercise of a public function, it is proved that he has given or obtained an advantage for himself or another person, the advantage shall be deemed to have been given or obtained upon the basis that it would or might influence him or another person to exercise a function improperly, or as a reward for so exercising a function, unless evidence is adduced on the balance of probabilities which casts doubt on the presumed fact. 30 35

7 Interpretation

In this Part –

“advantage” includes –

- (a) any benefit whether direct or indirect;
- (b) any other act done or omission made at the request of another person and whether or not the nature or timing of the advantage is then known or the making of the request is express or implied, direct or indirect; 40

“agent” includes any person employed by or acting for another;

“exercise a function” includes exercising or failing to exercise any duty or power irrespective of whether the function – 45

- (a) is or is not within the competence of the person exercising it;

- (b) is exercised in the United Kingdom or any part of it or elsewhere;
- “foreign public official” means any person –
- (a) holding a legislative, executive, administrative or judicial office of a country or territory outside the United Kingdom, whether appointed or elected; 5
- (b) exercising a public function for a country or territory outside the United Kingdom, including for a public agency or public enterprise; or
- (c) who is an official of a public international organisation or who is authorised by such an organisation as its agent; 10
- “improperly” means in breach of any duty, whether express or implied, and whether of a public or private nature, including any duty to act in good faith or impartially;
- “official of a public international organisation” means an international civil servant; and 15
- “principal” includes an employer.

Reporting public sector corruption

8 Duty to report

- (1) A person exercising any public function who is offered or receives an advantage in circumstances which may constitute an offence under sections 1 or 2 of this Act, or the common law offence of bribery, shall disclose as soon as reasonably practicable and in the prescribed manner – 20
- (a) the existence and nature of the advantage, or the offer of it; and
- (b) the name, if known, of the person by whom it was given or procured or offered or who agreed to give or procure it. 25
- (2) A person exercising any public function who knows or reasonably suspects, or ought reasonably to have known or reasonably to have suspected, that any person has committed, is committing or is about to commit an offence under sections 1 or 2 of this Act, or the common law offence of bribery, must disclose, as soon as reasonably practicable and in the prescribed manner, that knowledge or suspicion, and the information on which it is based, or cause such knowledge or suspicion to be so disclosed. 30
- (3) For the purposes of subsections (1) and (2) –
- (a) “a person exercising any public function” includes a person in the United Kingdom’s Diplomatic Service, but excludes a foreign public official; 35
- (b) “the prescribed manner” means –
- (i) to a constable; or
- (ii) where the employer of the person exercising the public function has established a procedure for that person to make disclosures of the kind mentioned in subsections (1) or (2), in accordance with that procedure, and to a constable. 40
- (4) In section 43A of the Employment Rights Act 1996 (c. 18), after “sections 43C to 43H” insert “, or in accordance with section 8(1) or section 8(2) of the Corruption Act 2007”. 45

- (5) Any provision of an agreement between a worker and his employer (whether or not a worker’s contract), including an agreement to refrain from instituting or continuing any proceedings under the Employment Rights Act 1996 (c. 18) or any proceedings for breach of contract is void in so far as it purports to preclude any worker from a protected disclosure. 5
- (6) For the purposes of subsection (5)–
- (a) the expression “protected disclosure” has the same meaning as in section 43A of the Employment Rights Act 1996; and
 - (b) the expressions “worker”, “employer” and “worker’s contract” have the same meaning as in section 43K of that Act. 10

9 Failure to report

- (1) A person who fails to comply with section 8 commits an offence.
- (2) It is a defence for a person charged with an offence under subsection (1) to prove that he reasonably believed that if he made the disclosure required to be made by him under that section, physical harm would be done to him or to another person or to his or their property. 15

10 Interfering with duty to report

A person who intentionally takes any action harmful to any person, including interference with a person’s lawful employment or occupation, on the ground that a person has made or may make a disclosure in accordance with section 8 commits an offence. 20

Supervision of subsidiaries etc.

11 Duty to supervise foreign compliance

- (1) A holding company incorporated in the United Kingdom shall take all such steps as are reasonably open to it to secure that any of its subsidiary companies incorporated outside the United Kingdom neither does nor omits to do something outside the United Kingdom which, if done or omitted to be done in the United Kingdom, would constitute an offence under any of sections 1 to 3 of this Act. 25
- (2) A company incorporated in the United Kingdom which is a party directly or indirectly to a relevant contractual arrangement shall take all such steps as are reasonably open to it to secure that any other party to that arrangement neither does nor omits to do something outside the United Kingdom which, if done or omitted to be done in the United Kingdom, would constitute an offence under any of sections 1 to 3 of this Act. 30 35
- (3) In this section–
- “company” includes any body corporate;
 - “holding company” and “subsidiary company” have the same meanings as in section 736 of the Income and Corporation Taxes Act 1988 (c. 1); and 40
 - “relevant contractual arrangement” means any contractual arrangement pursuant to which all or some of the affairs of a party to that arrangement, which is incorporated or otherwise organised outside the United Kingdom, are conducted in accordance wholly or partly with

the wishes of a company, incorporated in the United Kingdom, which is also party directly or indirectly to the arrangement.

12 Failure to supervise foreign compliance

- (1) A company which fails to comply with section 11 commits an offence.
- (2) Where an offence committed by a company under this section is proved to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the company, or of any person who was purporting to act in such a capacity, he as well as the company is guilty of that offence and is liable to be proceeded against and punished accordingly. 5
- (3) Where the affairs of a company are managed by its members, subsection (2) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the company. 10

Miscellaneous

13 Corruption committed outside the United Kingdom

- (1) This section applies if – 15
 - (a) a national of the United Kingdom or a body incorporated under the law of any part of the United Kingdom does or omits to do anything in a country or territory outside the United Kingdom;
 - (b) the act or omission would, if done or made in England and Wales or Northern Ireland, constitute a corruption offence. 20
- (2) In such a case –
 - (a) the act or omission constitutes the offence concerned;
 - (b) proceedings for the offence may be taken in England and Wales or Northern Ireland;
 - (c) the offence may be treated for incidental purposes as having been committed at a place in England and Wales or Northern Ireland. 25
- (3) These offences are corruption offences –
 - (a) an offence under this Part of this Act;
 - (b) an attempt, conspiracy or incitement to commit an offence under this Part; 30
 - (c) aiding, abetting, counselling or procuring the commission of an offence under this Part.
- (4) A national of the United Kingdom is an individual who is any of these –
 - (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen; 35
 - (b) a person who under the British Nationality Act 1981 (c. 61) is a British subject;
 - (c) a British protected person within the meaning of that Act.

14 Jurisdiction

- (1) In section 1(2) of the Criminal Justice Act 1993 (c. 36) (group A offences for purposes of provisions about jurisdiction) the following paragraph is inserted 40

after paragraph (c) –

“(cc) an offence under Part 1 of the Corruption Act 2007;”.

- (2) In Article 38(2) of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)) (group A offences for purposes of provisions about jurisdiction) the following sub-paragraph is inserted after sub-paragraph (c) – 5
“(cc) an offence under Part 1 of the Corruption Act 2007;”.

15 Powers of Serious Fraud Office

In the Criminal Justice Act 1987 (c. 38) –

- (a) after “fraud” wherever it appears except in the expression “Serious Fraud Office” insert “or corruption”; 10
(b) after section 1(2) insert –
“(2A) In this Act, any reference to “corruption” includes any offence under Part 1 of the Corruption Act 2007 and the common law offence of bribery.”

16 Penalties 15

- (1) A person guilty of an offence under this Part is liable –
(a) on conviction on indictment, to imprisonment for a term not exceeding the term specified in subsection (2) or a fine or both;
(b) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both. 20
(2) The maximum term of imprisonment on conviction on indictment is –
(a) 5 years for an offence under section 4;
(b) 2 years for an offence under section 9 or 10; and
(c) 7 years in any other case.

17 Abolition of existing statutory offences etc. 25

- (1) The Public Bodies Corrupt Practices Act 1889 (c. 69) shall cease to have effect.
(2) In section 1 of the Prevention of Corruption Act 1906 (c. 34) (offences relating to corrupt transactions with agents) –
(a) in subsection (1) the words from “If any agent” to “business; or” (in the second place where the latter words occur) are omitted; 30
(b) subsection (4) is omitted.
(3) In the Prevention of Corruption Act 1916 (c. 64) –
(a) section 2 (presumption of corruption for certain offences) is omitted;
(b) in section 4(2) (meaning of “public body”) the words (“including authorities existing in a country or territory outside the United Kingdom”) are omitted. 35
(4) In section 178 of the Licensing Act 1964 (c. 26) paragraph (c) and the word “or” immediately preceding it (bribery) are omitted.
(5) Paragraph 3 of Schedule 11 to the Local Government and Housing Act 1989 (c. 42) (amendment of 1916 Act) is omitted. 40

18 Repeals and revocations

The Schedule contains repeals and revocations.

19 Commencement: Part 1

- (1) Sections 1 to 17 and the Schedule apply in relation to acts or omissions done or made on or after the appointed day. 5
- (2) If an act or omission is alleged to have been done or made over a period of two or more days, or at some time in a period of two or more days, it must be taken for the purposes of this section to have been done or made on the last of those days.
- (3) The appointed day is such day as the Secretary of State appoints by order made by statutory instrument. 10

PART 2

LIMITATION

20 Postponement of limitation periods

- (1) Section 32 of the Limitation Act 1980 (c. 58) (postponement of limitation period in case of fraud etc.) is amended as follows. 15
- (2) In the sidenote after “fraud,” insert “corrupt conduct,”.
- (3) In subsection (1) after paragraph (a) insert –
“*(aa)* the action is based on the corrupt conduct of the defendant; or”.
- (4) In subsection (1) after “discovered the fraud,” insert “corrupt conduct”. 20
- (5) In subsection (3) after “fraud” insert “, corrupt conduct”.
- (6) In subsection (4)(a) –
 - (a) after “case of fraud” insert “, corrupt conduct”;
 - (b) after “party to the fraud” insert “or corrupt conduct”;
 - (c) after “believe that the fraud” insert “, corrupt conduct”. 25

21 Actions in respect of trust property

In section 21 of the Limitation Act 1980 (time limit for actions in respect of trust property) in paragraph (a) of subsection (1) for “fraud or any fraudulent breach of trust” substitute “fraud, fraudulent breach of trust or corrupt conduct”.

22 Meaning of corrupt conduct 30

In section 38(1) of the Limitation Act 1980 (interpretation) after the definition of “action” insert –

““corrupt conduct” means conduct which constitutes an offence under Part 1 of the Corruption Act 2007 or the common law offence of bribery;”.

35

23 Commencement: Part 2

- (1) Sections 20 to 22 apply to actions in relation to which the cause of action or right of action accrues on or after the commencement day.
- (2) The commencement day is the last day of the period of two months starting with the day on which the Act is passed.

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PART 3

MISCELLANEOUS AND GENERAL

Miscellaneous

24 Extent

Parts 1 and 2 do not extend to Scotland.

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25 The Crown

- (1) Part 1 binds the Crown, subject to subsections (2) to (6).
- (2) No contravention by the Crown of a provision of Part 1 makes the Crown criminally liable.
- (3) But the High Court may, on the application of a person appearing to the court to have an interest, declare unlawful an act or omission of the Crown which constitutes a contravention of a provision of Part 1.
- (4) Despite subsection (2), the provisions of Part 1 apply to persons in the public service of the Crown as they apply to other persons.
- (5) Subsections (1) to (4) do not affect Her Majesty in her private capacity.
- (6) The reference in subsection (5) to Her Majesty in her private capacity includes a reference to Her Majesty in right of her Duchy of Lancaster and to the Duke of Cornwall.

15

20

26 Citation

This Act may be cited as the Corruption Act 2007.

25

SCHEDULE

Section 18

REPEALS AND REVOCATIONS

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Public Bodies Corrupt Practices Act 1889 (c. 69)	The whole Act.	5
Prevention of Corruption Act 1906 (c. 34)	In section 1(1) the words from “If any agent” to “business; or” (in the second place where the latter words occur). In section 1(2) the words “expression “consideration” includes valuable consideration of any kind; the”. Section 1(4).	10
Prevention of Corruption Act 1916 (c. 64)	Section 2. In section 4(2) the words “(including authorities existing in a country or territory outside the United Kingdom)”. In section 4(3) the words from “and the” to the end.	15
Representation of the People Act 1948 (c. 65)	Section 52(7).	20
Licensing Act 1964 (c. 26)	In section 178, paragraph (c) and the word “or” immediately preceding it.	
Criminal Justice Act 1988 (c. 33)	Section 47(1).	
Local Government and Housing Act 1989 (c. 42)	In Schedule 11, paragraph 3.	25
Anti-terrorism, Crime and Security Act 2001 (c. 24)	Part 12. Section 128(1)(b).	

Corruption Bill [HL]

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To make provision about corruption.

The Lord Chidgey

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