



# Bribery Act 2010

## 2010 CHAPTER 23

### *Other provisions about offences*

#### **12 Offences under this Act: territorial application** **U.K.**

- (1) An offence is committed under section 1, 2 or 6 in England and Wales, Scotland or Northern Ireland if any act or omission which forms part of the offence takes place in that part of the United Kingdom.
- (2) Subsection (3) applies if—
  - (a) no act or omission which forms part of an offence under section 1, 2 or 6 takes place in the United Kingdom,
  - (b) a person's acts or omissions done or made outside the United Kingdom would form part of such an offence if done or made in the United Kingdom, and
  - (c) that person has a close connection with the United Kingdom.
- (3) In such a case—
  - (a) the acts or omissions form part of the offence referred to in subsection (2) (a), and
  - (b) proceedings for the offence may be taken at any place in the United Kingdom.
- (4) For the purposes of subsection (2)(c) a person has a close connection with the United Kingdom if, and only if, the person was one of the following at the time the acts or omissions concerned were done or made—
  - (a) a British citizen,
  - (b) a British overseas territories citizen,
  - (c) a British National (Overseas),
  - (d) a British Overseas citizen,
  - (e) a person who under the British Nationality Act 1981 was a British subject,
  - (f) a British protected person within the meaning of that Act,
  - (g) an individual ordinarily resident in the United Kingdom,
  - (h) a body incorporated under the law of any part of the United Kingdom,
  - (i) a Scottish partnership.

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- (5) An offence is committed under section 7 irrespective of whether the acts or omissions which form part of the offence take place in the United Kingdom or elsewhere.
- (6) Where no act or omission which forms part of an offence under section 7 takes place in the United Kingdom, proceedings for the offence may be taken at any place in the United Kingdom.
- (7) Subsection (8) applies if, by virtue of this section, proceedings for an offence are to be taken in Scotland against a person.
- (8) Such proceedings may be taken—
  - (a) in any sheriff court district in which the person is apprehended or in custody, or
  - (b) in such sheriff court district as the Lord Advocate may determine.
- (9) In subsection (8) “sheriff court district” is to be read in accordance with section 307(1) of the Criminal Procedure (Scotland) Act 1995.

### 13 **Defence for certain bribery offences etc.** **U.K.**

- (1) It is a defence for a person charged with a relevant bribery offence to prove that the person's conduct was necessary for—
  - (a) the proper exercise of any function of an intelligence service, or
  - (b) the proper exercise of any function of the armed forces when engaged on active service.
- (2) The head of each intelligence service must ensure that the service has in place arrangements designed to ensure that any conduct of a member of the service which would otherwise be a relevant bribery offence is necessary for a purpose falling within subsection (1)(a).
- (3) The Defence Council must ensure that the armed forces have in place arrangements designed to ensure that any conduct of—
  - (a) a member of the armed forces who is engaged on active service, or
  - (b) a civilian subject to service discipline when working in support of any person falling within paragraph (a),
 which would otherwise be a relevant bribery offence is necessary for a purpose falling within subsection (1)(b).
- (4) The arrangements which are in place by virtue of subsection (2) or (3) must be arrangements which the Secretary of State considers to be satisfactory.
- (5) For the purposes of this section, the circumstances in which a person's conduct is necessary for a purpose falling within subsection (1)(a) or (b) are to be treated as including any circumstances in which the person's conduct—
  - (a) would otherwise be an offence under section 2, and
  - (b) involves conduct by another person which, but for subsection (1)(a) or (b), would be an offence under section 1.
- (6) In this section—
  - “active service” means service in—
    - (a) an action or operation against an enemy,
    - (b) an operation outside the British Islands for the protection of life or property, or

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- (c) the military occupation of a foreign country or territory,  
“armed forces” means Her Majesty's forces (within the meaning of the Armed Forces Act 2006),  
“civilian subject to service discipline” and “enemy” have the same meaning as in the Act of 2006,  
“GCHQ” has the meaning given by section 3(3) of the Intelligence Services Act 1994,  
“head” means—
  - (a) in relation to the Security Service, the Director General of the Security Service,
  - (b) in relation to the Secret Intelligence Service, the Chief of the Secret Intelligence Service, and
  - (c) in relation to GCHQ, the Director of GCHQ,“intelligence service” means the Security Service, the Secret Intelligence Service or GCHQ,  
“relevant bribery offence” means—
  - (a) an offence under section 1 which would not also be an offence under section 6,
  - (b) an offence under section 2,
  - (c) an offence committed by aiding, abetting, counselling or procuring the commission of an offence falling within paragraph (a) or (b),
  - (d) an offence of attempting or conspiring to commit, or of inciting the commission of, an offence falling within paragraph (a) or (b), or
  - (e) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to an offence falling within paragraph (a) or (b).

#### **14 Offences under sections 1, 2 and 6 by bodies corporate etc. U.K.**

- (1) This section applies if an offence under section 1, 2 or 6 is committed by a body corporate or a Scottish partnership.
- (2) If the offence is proved to have been committed with the consent or connivance of—
  - (a) a senior officer of the body corporate or Scottish partnership, or
  - (b) a person purporting to act in such a capacity,the senior officer or person (as well as the body corporate or partnership) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) But subsection (2) does not apply, in the case of an offence which is committed under section 1, 2 or 6 by virtue of section 12(2) to (4), to a senior officer or person purporting to act in such a capacity unless the senior officer or person has a close connection with the United Kingdom (within the meaning given by section 12(4)).
- (4) In this section—
  - “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate,
  - “senior officer” means—
    - (a) in relation to a body corporate, a director, manager, secretary or other similar officer of the body corporate, and
    - (b) in relation to a Scottish partnership, a partner in the partnership.

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## 15 Offences under section 7 by partnerships **U.K.**

- (1) Proceedings for an offence under section 7 alleged to have been committed by a partnership must be brought in the name of the partnership (and not in that of any of the partners).
- (2) For the purposes of such proceedings—
  - (a) rules of court relating to the service of documents have effect as if the partnership were a body corporate, and
  - (b) the following provisions apply as they apply in relation to a body corporate—
    - (i) section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980,
    - (ii) section 18 of the Criminal Justice Act (Northern Ireland) 1945 (c. 15 (N.I.)) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I.26)),
    - (iii) section 70 of the Criminal Procedure (Scotland) Act 1995.
- (3) A fine imposed on the partnership on its conviction for an offence under section 7 is to be paid out of the partnership assets.
- (4) In this section “partnership” has the same meaning as in section 7.

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