



# 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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*Changes to legislation:* There are currently no known outstanding effects for the Bribery Act 2010, Cross Heading: Other provisions about offences. (See end of Document for details)

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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.

**Changes to legislation:**

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